

FREEDOM COURT REPORTING

Page 1	Page 3
<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE MIDDLE DISTRICT OF ALABAMA 3 SOUTHERN DIVISION 4 5 6 NANCY MARTIN and 7 MARY BETH BRACKIN, 8 Plaintiffs, 9 vs. CASE NO. 1:05-CV-1172-MEF 10 CITY OF DOTHAN and 11 JUDGE ROSE EVANS-GORDON, 12 Defendants. 13 14 ***** 15 DEPOSITION OF IVAN KEITH GRAY, taken 16 pursuant to stipulation and agreement before Sherry 17 McCaskey, Certified Court Reporter and Commissioner 18 for the State of Alabama at Large, in the Dothan 19 Civic Center, 126 N. Andrews Street, Dothan, 20 Alabama, on Wednesday, October 31, 2007, commencing 21 at approximately 1:55 p.m. 22 ***** 23</p>	<p>1 STIPULATIONS 2 It is hereby stipulated and agreed by and 3 between counsel representing the parties that the 4 deposition of IVAN KEITH GRAY is taken pursuant to 5 the Federal Rules of Civil Procedure and that said 6 deposition may be taken before Sherry McCaskey, 7 Certified Court Reporter and Commissioner for the 8 State of Alabama at Large, without the formality of 9 a commission; that objections to questions other 10 than objections as to the form of the questions need 11 not be made at this time but may be reserved for a 12 ruling at such time as the deposition may be offered 13 in evidence or used for any other purpose as 14 provided for by the Federal Rules of Civil 15 Procedure. 16 It is further stipulated and agreed by and 17 between counsel representing the parties in this 18 case that said deposition may be introduced at the 19 trial of this case or used in any manner by either 20 party hereto provided for by the Federal Rules of 21 Civil Procedure. 22 ***** 23</p>
Page 2	Page 4
<p>1 APPEARANCES 2 FOR THE PLAINTIFFS: 3 ISHMAEL JAFFREE, ESQUIRE 4 Jaffree Law 5 951 Government Street 6 Suite 415 7 Mobile, Alabama 36604 8 FOR THE DEFENDANTS: 9 CAROL SUE NELSON, ESQUIRE 10 Maynard, Cooper & Gayle 11 Attorneys at Law 12 2400 Amsouth/Harbert Plaza 13 1901 Sixth Avenue North 14 Birmingham, Alabama 35203 15 ***** 16 EXHIBIT INDEX 17 PLAINTIFFS' EXHIBIT NO.: 18 14 Interview transcript 40,41,35 19 15 Article from 84,93,102 20 www.rickeystokesnews.com 21 ***** 22 23</p>	<p>1 MS. NELSON: On the Record, I'd like to 2 say that this witness would like to 3 read and sign his deposition. 4 IVAN KEITH GRAY 5 The witness, having first been duly sworn 6 to speak the truth, the whole truth and nothing but 7 the truth, testified as follows: 8 EXAMINATION 9 BY MR. JAFFREE: 10 Q. Could you state your name for the Record? 11 A. Ivan Keith Gray. 12 Q. I understand that you want to exercise the 13 right that's given to you by the rules to read 14 and sign the deposition before it becomes an 15 official document? 16 A. Yes, sir. 17 Q. I understand that concern, and I've expressed 18 to counsel for the defendants my concern that 19 your deposition be available for use for a 20 dispositive motion that has a November 16th 21 deadline. 22 I will try to ask the court reporter to 23 expedite this and try to get it to you as soon</p>

1 (Pages 1 to 4)

367 VALLEY AVENUE
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FREEDOM COURT REPORTING

Page 5	Page 7
<p>1 as practical. And, hopefully, I will have it</p> <p>2 back in time for you to sign it and for the</p> <p>3 court reporter to certify it and for me to use</p> <p>4 those portions that are necessary in order to</p> <p>5 support any partial summary judgment motion I</p> <p>6 may file.</p> <p>7 If not, I am, on the Record, reserving the</p> <p>8 right to submit the unverified portion with</p> <p>9 leave to correct any errors subsequently. And</p> <p>10 so to that extent, I'm asking the court</p> <p>11 reporter to give me a copy of the unverified</p> <p>12 deposition pretty much at the same time that</p> <p>13 she provides you with a copy of the original</p> <p>14 or at least the tentative original for your</p> <p>15 review.</p> <p>16 Now, having said that, let me ask you:</p> <p>17 Have you sat for a deposition before?</p> <p>18 A. Yes, sir.</p> <p>19 Q. How frequently?</p> <p>20 A. Maybe --</p> <p>21 MS. NELSON: You mean how many times?</p> <p>22 I'm sorry. Go ahead.</p> <p>23 Q. Well, how many times then?</p>	<p>1 A. I'm assuming that I was the City's witness. I</p> <p>2 just received notice to appear for a</p> <p>3 deposition, and I was there. So I'm assuming</p> <p>4 that the City was the one that asked me to</p> <p>5 come to that. Now, I'm not 100 percent sure</p> <p>6 if it wasn't the defendant -- or which would</p> <p>7 have been the plaintiff. Excuse me.</p> <p>8 MS. NELSON: You need to speak up because</p> <p>9 she's got to hear what you're saying</p> <p>10 to take it down.</p> <p>11 THE WITNESS: Okay.</p> <p>12 Q. And do you recall whether prior to your</p> <p>13 sitting for that deposition, somebody prepared</p> <p>14 you for that deposition?</p> <p>15 A. I don't remember that.</p> <p>16 Q. Have you been prepared for this deposition?</p> <p>17 MS. NELSON: Again -- go ahead. You can</p> <p>18 answer.</p> <p>19 I would object to any discussions</p> <p>20 that any counsel for the City would</p> <p>21 have had with him.</p> <p>22 MR. JAFFREE: I'm not sure --</p> <p>23 MS. NELSON: He is a lieutenant and he</p>
Page 6	Page 8
<p>1 A. Maybe twice.</p> <p>2 Q. Do you recall those times that you sat for a</p> <p>3 deposition?</p> <p>4 A. On one of them I do.</p> <p>5 Q. And what was that; what was the issue?</p> <p>6 A. It was a case where a defendant was suing the</p> <p>7 City of Dothan. I believe the defendant's</p> <p>8 name was Stovall, and it had to with a officer</p> <p>9 -- another office arresting him in this</p> <p>10 building at the Civic Center.</p> <p>11 Q. And the deposition took place in this</p> <p>12 building?</p> <p>13 A. No. The issue about the officers arresting</p> <p>14 Mr. Stovall was in the Civic Center.</p> <p>15 Q. I see.</p> <p>16 A. It occurred here.</p> <p>17 Q. And you were called as a deponent on behalf of</p> <p>18 whom?</p> <p>19 A. The City.</p> <p>20 Q. So you became the City's witness?</p> <p>21 MS. NELSON: Object to the form.</p> <p>22 And when I say that, just ignore</p> <p>23 me. Go ahead and answer.</p>	<p>1 is --</p> <p>2 MR. JAFFREE: -- technically that you're</p> <p>3 representing him. Just not quite sure</p> <p>4 of that.</p> <p>5 MS. NELSON: He is a lieutenant with the</p> <p>6 City of Dothan and, therefore, is part</p> <p>7 of the City.</p> <p>8 MR. JAFFREE: I'm not going to ask what</p> <p>9 you talked to him about, what strategy</p> <p>10 sessions you two had. I'm still not</p> <p>11 quite sure you technically represent</p> <p>12 everybody that is employed in some</p> <p>13 capacity with the City of Dothan</p> <p>14 because you represent the City in a</p> <p>15 single, narrowly focused litigation.</p> <p>16 Q. But be that as it may, do you remember any of</p> <p>17 the facts and circumstances surrounding the</p> <p>18 second deposition that you sat for?</p> <p>19 A. The one that I have mentioned would have been</p> <p>20 the second one, and I'm just assuming -- I</p> <p>21 don't remember any details or facts for the</p> <p>22 first one. That's not -- that is an</p> <p>23 approximate number. I've been employed with</p>

2 (Pages 5 to 8)

367 VALLEY AVENUE
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FREEDOM COURT REPORTING

Page 9	Page 11
<p>1 the City almost 23 years. So I remember one</p> <p>2 specifically. And I may have sat for another</p> <p>3 one prior, but I'm not 100 percent sure.</p> <p>4 Q. Well, your response dovetails nicely into my</p> <p>5 next question: When did you first become</p> <p>6 employed with the City of Dothan?</p> <p>7 A. In 1985.</p> <p>8 Q. In what capacity?</p> <p>9 A. I was a jail security officer.</p> <p>10 Q. Was that in the old jail; did they have an old</p> <p>11 jail?</p> <p>12 A. Yes, sir.</p> <p>13 Q. I think I know, but what is a jail security</p> <p>14 officer?</p> <p>15 A. More people would commonly be -- think of it</p> <p>16 as a corrections officer. We actually</p> <p>17 in-process prisoners as they come to the jail</p> <p>18 facility, care to their needs and -- and</p> <p>19 upkeep, book, fingerprint, process.</p> <p>20 Q. Did you have to take any training for that?</p> <p>21 A. No, sir, not at the time.</p> <p>22 Q. So you didn't have to go to any kind of</p> <p>23 academy to become that?</p>	<p>1 answer if you understand and know.</p> <p>2 A. It's a department of the City of Dothan.</p> <p>3 Q. Okay. Is it connected to any other department</p> <p>4 with the City of Dothan as far as you know?</p> <p>5 MS. NELSON: Object to the form.</p> <p>6 A. Not that I know of.</p> <p>7 Q. So it's an independent, separate department of</p> <p>8 the City of Dothan?</p> <p>9 A. To my knowledge.</p> <p>10 Q. Are you aware of the organizational structure</p> <p>11 of the police department? And when I</p> <p>12 say "police department," I'm always referring</p> <p>13 to the City of Dothan Police Department.</p> <p>14 A. Yes, sir.</p> <p>15 Q. What is that organizational structure?</p> <p>16 A. The police chief is the department head.</p> <p>17 There is a major that -- that's up under him.</p> <p>18 There is presently one captain and one acting</p> <p>19 captain. And one of those captains is over</p> <p>20 the records division.</p> <p>21 Q. Which one, the captain or the acting?</p> <p>22 A. The captain, Captain Parrish. The acting</p> <p>23 captain Larry Drone is over the field</p>
Page 10	Page 12
<p>1 A. No, sir.</p> <p>2 Q. So you weren't really with the police force at</p> <p>3 that time?</p> <p>4 A. I wasn't a sworn officer.</p> <p>5 Q. But you were classified as an officer?</p> <p>6 A. I was a jail -- I was not a police officer in</p> <p>7 that capacity. I was actually a jail security</p> <p>8 officer, which is an unsworn member of the</p> <p>9 police department.</p> <p>10 Q. And how long did you serve in the capacity of</p> <p>11 jail security officer?</p> <p>12 A. Approximately six months.</p> <p>13 Q. And what happened after that?</p> <p>14 A. I made application to become a police officer</p> <p>15 and was hired as a police officer.</p> <p>16 Q. Now, that's for the City of Dothan we're</p> <p>17 talking about, right?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Is the police department a separate agency or</p> <p>20 a unit of the government? How is the police</p> <p>21 force in the City of Dothan characterized?</p> <p>22 What is it; is it a department or what?</p> <p>23 MS. NELSON: Object to the form. You can</p>	<p>1 operations division.</p> <p>2 Q. Thank you. You have some more under the</p> <p>3 structure?</p> <p>4 A. Yes. There are several different branches</p> <p>5 that come down from there. There's --</p> <p>6 Q. How many branches?</p> <p>7 A. Oh --</p> <p>8 Q. Is there that many?</p> <p>9 A. Yes.</p> <p>10 Q. More than ten?</p> <p>11 A. Close to if not more than. You have the</p> <p>12 acting captain which is over five divisions of</p> <p>13 patrol. God, there's -- I don't know</p> <p>14 which -- I believe Captain Parrish is over all</p> <p>15 administration that would include records. It</p> <p>16 would include the clerks, the</p> <p>17 secretary -- administrative secretaries, the</p> <p>18 -- the --</p> <p>19 MS. NELSON: Just the best you can</p> <p>20 remember.</p> <p>21 A. There is just so many branches. Unless I see</p> <p>22 an organizational chart, I can give you</p> <p>23 just -- we have a criminal investigations</p>

3 (Pages 9 to 12)

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FREEDOM COURT REPORTING

Page 13	Page 15
<p>1 division, a juvenile division, and there's two</p> <p>2 lieutenants that's over those divisions. We</p> <p>3 have a docket division that has an</p> <p>4 administrative assistant. We have police</p> <p>5 communications that come from there. We have</p> <p>6 police animal shelter or the animal shelter</p> <p>7 which is up under the umbrella of the police</p> <p>8 department. We have the radio maintenance</p> <p>9 shop which is up under the umbrella of the</p> <p>10 police department. There's training</p> <p>11 division. There is school resources which</p> <p>12 comes up under juvenile division. We've got</p> <p>13 school crossing guards that's -- that's in</p> <p>14 there.</p> <p>15 But right off the top of my head, just</p> <p>16 thinking right now, we have -- there's an</p> <p>17 internal affairs division which answers up</p> <p>18 under -- directly to the police chief.</p> <p>19 Q. So it is directly connected to the police</p> <p>20 chief?</p> <p>21 A. Yes.</p> <p>22 Q. It bypasses the major and the two captains?</p> <p>23 A. Unless -- our major has only had that position</p>	<p>1 A. No.</p> <p>2 Q. I'm ignorant as to the ranks of police</p> <p>3 officers. I'm ignorant to the ranks of the</p> <p>4 military because I managed to escape as 1D,</p> <p>5 1F, something. I was a one something.</p> <p>6 But anyway, be that as it may -- maybe I</p> <p>7 should notice -- but I guess you start off as</p> <p>8 a private or something?</p> <p>9 A. No. You're just an officer.</p> <p>10 Q. And the next rank is what?</p> <p>11 A. A corporal.</p> <p>12 Q. Is an officer the same thing as a private</p> <p>13 would be in the --</p> <p>14 A. Yes, sir.</p> <p>15 Q. -- military?</p> <p>16 A. We -- it -- it isn't distinguished by that</p> <p>17 but, yes, sir. Private is usually starting at</p> <p>18 the bottom and then officer would be just --</p> <p>19 Q. So I'm assuming you started as just an</p> <p>20 officer?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And a gentleman?</p> <p>23 A. Yes, sir. Thank you.</p>
Page 14	Page 16
<p>1 for approximately a year. And unless they</p> <p>2 have been somehow connected, I believe the IA</p> <p>3 is still coming directly from the chief.</p> <p>4 Q. Okay. Let me get to the internal affairs</p> <p>5 division. I would say that's the primary</p> <p>6 purpose of your deposition.</p> <p>7 So after six months, thereabouts, you</p> <p>8 became a police officer. You took whatever</p> <p>9 tests necessary?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And then took whatever training was necessary?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Went to the academy and -- is that the one</p> <p>14 that's here in Dothan?</p> <p>15 A. No, sir. In Selma, Alabama.</p> <p>16 Q. I'm thinking about Mobile. I've got to</p> <p>17 remember what city I'm in, Dothan.</p> <p>18 The academy is in Selma for training for</p> <p>19 the Dothan police officers?</p> <p>20 A. The one that I attended, yes, sir.</p> <p>21 Q. And so you matriculated through that and</p> <p>22 became a police chief (sic). Did you have any</p> <p>23 rank at the time?</p>	<p>1 Q. So you remained an officer until when?</p> <p>2 A. I'm thinking around 1990. No, that's</p> <p>3 incorrect. I made the rank of corporal -- I</p> <p>4 can't remember. I believe it was in the late</p> <p>5 80s, but I'm not 100 percent sure.</p> <p>6 Q. Okay. And how long did you remain a corporal?</p> <p>7 A. Not that long. I'm -- then again I'm not</p> <p>8 certain, but I'm going to have to guess, maybe</p> <p>9 a few years. Then I was promoted to</p> <p>10 sergeant. I believe that was in 1990, but I'm</p> <p>11 not 100 percent on that.</p> <p>12 Q. Would it be correct to characterize you as on</p> <p>13 the fast track? Or maybe everybody goes at</p> <p>14 that speed.</p> <p>15 A. No, sir. Up until -- I stayed a sergeant for</p> <p>16 a long time. And I was just recently promoted</p> <p>17 to lieutenant approximately a year ago --</p> <p>18 little bit over a year ago. Matter of fact,</p> <p>19 it was a year last month.</p> <p>20 Q. Maybe you were on the fast track until you got</p> <p>21 to sergeant?</p> <p>22 A. That's a total, different story. I'll tell</p> <p>23 you about that one day.</p>

4 (Pages 13 to 16)

367 VALLEY AVENUE
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FREEDOM COURT REPORTING

Page 17	Page 19
<p>1 Q. Now, when you was promoted to sergeant, were 2 you in some particular division, or did you 3 float around from division to division? 4 A. I think I was -- 5 MS. NELSON: Object to form. Go ahead. 6 MR. JAFFREE: You don't like the term 7 "float?" 8 MS. NELSON: I don't but go ahead. 9 A. I was just -- I was in patrol division until I 10 made the rank of sergeant. 11 Q. And once you made that rank, what division 12 were you in? 13 A. Back then, the first line of being a 14 supervisor, you went back to the docket 15 detention which is the jail. So I was the 16 supervisor over one of the shifts in the jail 17 as a sergeant for about a year. 18 Q. And then after that? 19 A. I was transferred to the narcotics -- 20 narcotics division where I worked there 21 about -- I'm going to guess about a year, year 22 and a half. 23 Q. Okay. And then after that?</p>	<p>1 MR. JAFFREE: You're not in control over 2 this officer. But fine. 3 MS. NELSON: I just don't understand your 4 question. I'm not going to ask -- if 5 he doesn't understand, he needs to let 6 you -- 7 A. Objective analysis -- 8 MS. NELSON: Just ask him -- maybe ask him 9 what he was trained to do. 10 MR. JAFFREE: Let me -- I appreciate your 11 offer to help, but let me try to make 12 it a bit -- by the way, are we doing 13 the same thing again, talking -- 14 Q. When you started criminal investigation and 15 went to these trainings, were you trained just 16 to look at the facts objectively, you know, 17 like Sergeant Friday, "Just the facts, 18 ma'am?" Were you trained in that manner? 19 MS. NELSON: Object to the form. I don't 20 know if he knows how Sergeant Friday 21 was trained, but to the extent you 22 understand him, you can answer. 23 MR. JAFFREE: I wasn't talking about how</p>
Page 18	Page 20
<p>1 A. I went back to the jail I believe -- I believe 2 this is right -- for a year. Then I went to 3 criminal investigations after that. 4 Q. Did you take any special training once you 5 went to the -- is that a criminal 6 investigations division? 7 A. Not at the very onset. It was just on-the-job 8 training with seasoned investigators. And as 9 you're going through your career there, they 10 have different schools that they send you to 11 that you can attend for either specialized 12 training or -- 13 Q. Do you recall whether or not these schools had 14 an emphasis on objective factual analysis or 15 emphasis on making a case? 16 MS. NELSON: Object to the form. I have 17 no idea what you're talking about. 18 THE WITNESS: I don't either. 19 A. I can assume what you're saying, but if he -- 20 MS. NELSON: I would ask you not to assume 21 anything. 22 THE WITNESS: Okay. 23 A. Well, if you could explain a little bit more.</p>	<p>1 he was trained. I was talking about, 2 he always tells people, "Just the 3 facts, ma'am." 4 A. My training to be a criminal investigator, as 5 I said, was from experienced investigators. 6 So I did not -- I want to make sure you 7 understand. I did not attend a school for 8 that. 9 The individual schools that I would have 10 attended during that tenure would be like 11 photography, how to take statements. I went 12 to a forensic hypnosis school. I went to a 13 polygraph school. 14 So as far as a structured setting that 15 says, this is how you do an investigation, 16 being objective from -- and whatever, that 17 never came in as a point of being taught. 18 It's just what you learned as a police officer 19 in being objective and the looking at facts 20 and basing everything off of the totality of 21 the circumstances and things of that nature. 22 I hope I answered your question. 23 Q. Yeah. So let's get to this police officer</p>

5 (Pages 17 to 20)

367 VALLEY AVENUE
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FREEDOM COURT REPORTING

Page 21	Page 23
<p>1 that trained you. Do you remember who it was</p> <p>2 that you first got trained by?</p> <p>3 MS. NELSON: Again, I object to the form.</p> <p>4 I'm not sure he said it was one police</p> <p>5 officer. I think he said seasoned</p> <p>6 officers or something of that nature.</p> <p>7 A. Seasoned investigators.</p> <p>8 Q. Well, so more than one seasoned investigator</p> <p>9 when you first started?</p> <p>10 A. Oh, yes. I believe one of our -- one of the</p> <p>11 guys that helped me out that I think was my</p> <p>12 first training -- I can't call him a training</p> <p>13 officer, but the first seasoned investigator</p> <p>14 that I was put with, I believe, is -- I</p> <p>15 believe. I'm not 100 percent sure, but it was</p> <p>16 Robert Sorrells.</p> <p>17 Q. And you probably told me this and I didn't</p> <p>18 write it. What year was this that you started</p> <p>19 working as a criminal investigator, if you</p> <p>20 recall?</p> <p>21 A. I'm going to guess around 1993, 1994,</p> <p>22 somewhere in there. But that's just guessing.</p> <p>23 Q. Now, from your experience when you first</p>	<p>1 investigation unit in 2001, were you?</p> <p>2 A. No. I started in internal affairs -- I think</p> <p>3 it was in 1999. And before I went to internal</p> <p>4 affairs, I was in criminal investigations.</p> <p>5 Q. What is internal affairs?</p> <p>6 A. It's an administrative portion of part of the</p> <p>7 police department -- division of the police</p> <p>8 department that deals with allegations -- or</p> <p>9 they investigate allegations of police</p> <p>10 misconduct. They also work with applicant</p> <p>11 screening, applicant backgrounds for the</p> <p>12 department.</p> <p>13 Q. What department?</p> <p>14 A. For the police department.</p> <p>15 And conducts investigations at the</p> <p>16 pleasure of the police chief -- at the</p> <p>17 direction of the police chief.</p> <p>18 Q. Is there, as far as you know, any statute or</p> <p>19 regulation that set up the internal affairs</p> <p>20 department for the City of Dothan?</p> <p>21 A. What do you mean by "statute?"</p> <p>22 Q. Or any kind of code or law that brought it</p> <p>23 into existence.</p>
Page 22	Page 24
<p>1 started working with these seasoned criminal</p> <p>2 investigators, do you know if they approached</p> <p>3 each investigation with a point of view?</p> <p>4 A. That I don't know.</p> <p>5 Q. Do you know what I'm referring to?</p> <p>6 A. If they're looking at a specific investigation</p> <p>7 in one particular way, is what I interpret</p> <p>8 that you're saying.</p> <p>9 Q. Well, that's part of it, and maybe they are</p> <p>10 trying to make facts fit a hypothesis.</p> <p>11 MS. NELSON: Object to the form, if that's</p> <p>12 a question.</p> <p>13 MR. JAFFREE: Well, that's my</p> <p>14 explanation.</p> <p>15 Q. Do you know what I'm talking about, making the</p> <p>16 facts fit a hypothesis?</p> <p>17 A. I know what you're saying. I can't say that</p> <p>18 they have. No, I can't say that that's the</p> <p>19 way they did it.</p> <p>20 Q. So how long did you remain in the criminal</p> <p>21 investigation unit?</p> <p>22 A. Approximately eight to ten years.</p> <p>23 Q. Well, you weren't in the criminal</p>	<p>1 MS. NELSON: If you know.</p> <p>2 A. I don't know.</p> <p>3 Q. But was there a handbook given to you when you</p> <p>4 became a member of the internal affairs</p> <p>5 division that spoke either specifically or in</p> <p>6 a vague way of a charter of the division?</p> <p>7 A. No, sir.</p> <p>8 Q. Do you know how many different departments</p> <p>9 there are associated with the City of Dothan?</p> <p>10 A. No, sir, not specifically.</p> <p>11 Q. Is there a maintenance department as far as</p> <p>12 you know? It's not called maintenance. Maybe</p> <p>13 you call them environmental services</p> <p>14 department.</p> <p>15 A. There's an environmental services department,</p> <p>16 but I've heard of a maintenance department.</p> <p>17 Q. I'm dating my age. They use politically</p> <p>18 correct words now.</p> <p>19 I guess they have a fire department for</p> <p>20 the city?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Health department maybe for the City?</p> <p>23 A. I don't know if the employee health clinic is</p>

6 (Pages 21 to 24)

367 VALLEY AVENUE
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FREEDOM COURT REPORTING

Page 25	Page 27
<p>1 a department.</p> <p>2 Q. But is it a unit of the City government?</p> <p>3 MS. NELSON: He said he didn't know.</p> <p>4 MR. JAFFREE: Well, he didn't know if it</p> <p>5 was a department, but maybe he knows</p> <p>6 what it's characterized as.</p> <p>7 MS. NELSON: Object to the form.</p> <p>8 A. I know that the employees with the employee</p> <p>9 heath clinic are employed by the City of</p> <p>10 Dothan. I don't know the status. I don't</p> <p>11 know if it's a department. I don't know if</p> <p>12 they have a department head. I don't know.</p> <p>13 Q. Well, let me jump further into the chase.</p> <p>14 Now, have you ever done an internal affairs</p> <p>15 investigation for the environmental service</p> <p>16 department for the City of Dothan for one of</p> <p>17 their employees?</p> <p>18 A. Not that I can recall.</p> <p>19 Q. What about the fire department for the City?</p> <p>20 A. Yes.</p> <p>21 Q. You did? You investigated one of the</p> <p>22 employees in the fire department?</p> <p>23 A. It wasn't just one employee, I don't believe.</p>	<p>1 department?</p> <p>2 A. Would you say that again?</p> <p>3 Q. Has internal affairs division conducted</p> <p>4 investigations of any other city departments,</p> <p>5 excluding the police department and the</p> <p>6 magistrate or the judicial department?</p> <p>7 A. That I was a party to?</p> <p>8 Q. Or that you are aware of.</p> <p>9 MS. NELSON: And besides the fire</p> <p>10 department, besides what he's already</p> <p>11 testified to.</p> <p>12 A. Right. I'm not 100 percent certain. But they</p> <p>13 could -- there was an investigation dealing</p> <p>14 with the Dothan Utilities where there was a</p> <p>15 theft of some money I believe. And as I said,</p> <p>16 I'm not certain if it was the internal affairs</p> <p>17 or the criminal investigations division that</p> <p>18 investigated that.</p> <p>19 Q. So they may have done -- I'm sorry. What</p> <p>20 department was that?</p> <p>21 A. Utilities.</p> <p>22 Q. So there may have been one with utilities, but</p> <p>23 you're not positive?</p>
Page 26	Page 28
<p>1 Q. A number of employees?</p> <p>2 A. The investigation --</p> <p>3 MS. NELSON: Best you can, if you can</p> <p>4 answer.</p> <p>5 THE WITNESS: Yeah, I know.</p> <p>6 A. It wasn't -- the investigation wasn't directed</p> <p>7 as an -- at an employee. It was directed</p> <p>8 at -- at a possibility of misconduct as it</p> <p>9 relates to that department. So it wasn't an</p> <p>10 employee.</p> <p>11 Q. The misconduct that the investigation was</p> <p>12 directed towards, did it have a criminal</p> <p>13 element?</p> <p>14 A. No.</p> <p>15 Q. Misconduct that didn't relate to any crime but</p> <p>16 concerned a department?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. Have y'all -- let's leave aside for a</p> <p>19 minute the judicial department. Have y'all --</p> <p>20 when I say "y'all," I'm talking about internal</p> <p>21 affairs -- conducted internal affairs</p> <p>22 investigations of any other departments of the</p> <p>23 City of Dothan, other than the police</p>	<p>1 A. Right.</p> <p>2 Q. But if there was, you think it involved some</p> <p>3 type of criminal activity, theft activity?</p> <p>4 A. Correct.</p> <p>5 Q. Were you involved in a investigation with --</p> <p>6 on a personal level with the fire department?</p> <p>7 I think you said you were, but I want to be</p> <p>8 clear on that. Were you personally involved?</p> <p>9 A. Yes.</p> <p>10 Q. Do you have any idea pursuant to what</p> <p>11 authority police internal affairs investigated</p> <p>12 the fire department for a non-criminal</p> <p>13 activity?</p> <p>14 A. My police chief assigned that investigation to</p> <p>15 me and Corporal Frank Reeves, so that's pretty</p> <p>16 much the authority that I followed.</p> <p>17 Q. So the authority -- whatever the police chief</p> <p>18 decides to assign you, that's the authority?</p> <p>19 A. That's -- that's the -- whose -- under whose</p> <p>20 authority I investigated that case.</p> <p>21 Q. Did you give the people that you investigated</p> <p>22 at the fire department the garrity notice?</p> <p>23 A. I don't remember. I didn't review that case</p>

7 (Pages 25 to 28)

367 VALLEY AVENUE
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FREEDOM COURT REPORTING

Page 29	Page 31
<p>1 before coming here.</p> <p>2 Q. Well, do you think you would have? Is that</p> <p>3 standard operating procedure?</p> <p>4 A. It is. That was early on in internal</p> <p>5 affairs. I'm not sure if that was before I</p> <p>6 went to the internal affairs school or not.</p> <p>7 So I don't remember.</p> <p>8 Q. So y'all might not had been given that notice?</p> <p>9 MS. NELSON: Object to form.</p> <p>10 A. I don't remember.</p> <p>11 MS. NELSON: He said he didn't remember.</p> <p>12 A. I don't remember.</p> <p>13 MR. JAFFREE: Well, I'm just clarifying</p> <p>14 what's he saying. It sounds like</p> <p>15 y'all may not have been given the</p> <p>16 notice at that time.</p> <p>17 MS. NELSON: Again, I think the Record</p> <p>18 will speak to what his answer is.</p> <p>19 A. I don't remember.</p> <p>20 MR. JAFFREE: Well, I guess if that was</p> <p>21 the case, then the Record would have</p> <p>22 taken the place of your comment.</p> <p>23 Q. But be that as it may, do you know from any</p>	<p>1 business to investigate the employees for</p> <p>2 administrative misconduct?</p> <p>3 A. No.</p> <p>4 MS. NELSON: Object to the form.</p> <p>5 Q. But do you understand what I mean by</p> <p>6 "administrative misconduct?"</p> <p>7 MS. NELSON: Object to the form. I don't.</p> <p>8 MR. JAFFREE: Okay.</p> <p>9 MS. NELSON: Are you talking about a</p> <p>10 business that has no association with</p> <p>11 the City?</p> <p>12 MR. JAFFREE: I'm talking about a business</p> <p>13 having no association with the City.</p> <p>14 Q. Like, for instance, McDonald's. McDonald's</p> <p>15 thinks their employee was goofing off and not</p> <p>16 putting in eight-hours work for eight-hours</p> <p>17 pay.</p> <p>18 Is that something you think that internal</p> <p>19 affairs would investigate?</p> <p>20 MS. NELSON: Object to the form.</p> <p>21 A. No.</p> <p>22 Q. You don't think that's part of your charter?</p> <p>23 MS. NELSON: Object to what he thinks.</p>
Page 30	Page 32
<p>1 document that you have ever read that</p> <p>2 authorizes internal affairs -- the Dothan</p> <p>3 Internal Affairs Division to investigate</p> <p>4 non-criminal matters involving civilians?</p> <p>5 A. For clarity, what are you calling a civilian?</p> <p>6 Q. A non-police officer or somebody that's not</p> <p>7 associated with the police division.</p> <p>8 A. Okay. So anyone outside of the umbrella of</p> <p>9 the police department you're calling just a</p> <p>10 citizen, not necessarily that they're a City</p> <p>11 employee?</p> <p>12 Q. Well, first -- yeah, let's make it that</p> <p>13 broad. Anybody. Don't have to be a City</p> <p>14 employee, just outside the umbrella of the</p> <p>15 police department.</p> <p>16 A. The internal affairs division has done</p> <p>17 investigations which include; by your</p> <p>18 definition, citizens as witnesses; subjects of</p> <p>19 complaints of -- because they complain on</p> <p>20 police officers. So citizens complaining on</p> <p>21 police officers. So, yes, we have.</p> <p>22 Q. As far as you know, have y'all did an internal</p> <p>23 affairs investigation of a privately owned</p>	<p>1 But --</p> <p>2 Q. If the chief assigned you to investigate it,</p> <p>3 you would perhaps do it?</p> <p>4 A. I'd do exactly what my boss said do.</p> <p>5 Q. You know which side your bread is buttered on,</p> <p>6 huh?</p> <p>7 MS. NELSON: Object to the form.</p> <p>8 MR. JAFFREE: I'm putting some levity in</p> <p>9 here so I can stay awake.</p> <p>10 Q. Do you know, from your own experience, how</p> <p>11 many times you have initiated an investigation</p> <p>12 on behalf of the judicial department?</p> <p>13 MS. NELSON: Object the form. What do you</p> <p>14 be mean, "on behalf of?"</p> <p>15 MR. JAFFREE: Well, let me limit my</p> <p>16 question.</p> <p>17 MS. NELSON: Involving?</p> <p>18 MR. JAFFREE: Let me limit my question</p> <p>19 to -- I'm sure counsel is going to</p> <p>20 object no sooner than I move my mouth.</p> <p>21 Q. Let me limit my question. Do you recall how</p> <p>22 many times you have conducted an investigation</p> <p>23 where employees of the judicial department was</p>

8 (Pages 29 to 32)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 33	Page 35
<p>1 involved in an investigation? Let me put it</p> <p>2 more bluntly, the target of an investigation.</p> <p>3 MS. NELSON: Object to the form.</p> <p>4 A. I've been involved in two investigations, to</p> <p>5 my knowledge, as it relates to the City of</p> <p>6 Dothan Judicial Department.</p> <p>7 Q. Prior --</p> <p>8 A. Clarify. Within the two, there were new</p> <p>9 issues that came out in one particular, so I'm</p> <p>10 considering that as one event dealing with</p> <p>11 that investigation with the judicial</p> <p>12 department. And then there was a separate</p> <p>13 one. So two to my knowledge, two different</p> <p>14 investigations.</p> <p>15 Q. So one became pregnant and the other one did</p> <p>16 not?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And you investigated the baby as well?</p> <p>19 MS. NELSON: Object to the form.</p> <p>20 MR. JAFFREE: What was wrong with that</p> <p>21 form?</p> <p>22 Q. Let me go back again. Do you recall ever</p> <p>23 being involved in an internal affairs</p>	<p>1 you have any knowledge of anyone, other than</p> <p>2 yourself, conducting an investigation of an</p> <p>3 employee of the judicial department prior to</p> <p>4 Judge Gordon becoming a municipal judge?</p> <p>5 MS. NELSON: I'm going to state an</p> <p>6 objection. There was no judicial</p> <p>7 department before Judge Gordon came to</p> <p>8 the City.</p> <p>9 MR. JAFFREE: Well, I guess his response</p> <p>10 would be, no.</p> <p>11 MS. NELSON: Well, I'm just making that</p> <p>12 point, but he can answer as he --</p> <p>13 MR. JAFFREE: And then you can indicate</p> <p>14 that my question was too limited.</p> <p>15 A. I don't have any knowledge of that.</p> <p>16 Q. All right. Let me -- counsel is always being</p> <p>17 helpful.</p> <p>18 So do you have any knowledge of anybody</p> <p>19 being involved in an internal affairs</p> <p>20 investigation of any city magistrate prior to</p> <p>21 Judge Gordon becoming municipal judge, any</p> <p>22 city magistrate, whether or not they were</p> <p>23 called city magistrates or city clerks?</p>
Page 34	Page 36
<p>1 investigation of any employee of the judicial</p> <p>2 department prior to the installation of Judge</p> <p>3 Gordon?</p> <p>4 MS. NELSON: Prior to the installation?</p> <p>5 MR. JAFFREE: That's the term for her</p> <p>6 getting her position.</p> <p>7 MS. NELSON: Okay.</p> <p>8 A. No, sir, I don't believe I did.</p> <p>9 MR. JAFFREE: Somehow, I think you don't</p> <p>10 like my vocabulary.</p> <p>11 MS. NELSON: Well, I'm just trying to make</p> <p>12 sure I understand what you were</p> <p>13 saying. I think -- just for the</p> <p>14 Record, I think perhaps he went into</p> <p>15 internal affairs about the time Judge</p> <p>16 Gordon went on the bench.</p> <p>17 MR. JAFFREE: Perhaps slightly ahead of</p> <p>18 her, perhaps not. But, thanks, you</p> <p>19 helped me with another question.</p> <p>20 Q. Did you have any knowledge of anyone employed</p> <p>21 by internal affairs conducting an</p> <p>22 investigation? Knowledge. Now, I don't care</p> <p>23 if it's hearsay knowledge for my purposes. Do</p>	<p>1 I don't know what that place was called if</p> <p>2 it wasn't judicial. I mean, it just may have</p> <p>3 been called clerk division, whatever, or</p> <p>4 whatever.</p> <p>5 MS. NELSON: Object to the form,</p> <p>6 statement, but you can answer to the</p> <p>7 extent you know.</p> <p>8 MR. JAFFREE: If you want to give me some</p> <p>9 help, do you know what it was called?</p> <p>10 You probably do.</p> <p>11 MS. NELSON: I'm not here to testify.</p> <p>12 MR. JAFFREE: It's probably here in some</p> <p>13 of this junk I've got.</p> <p>14 A. I don't have any knowledge of any prior</p> <p>15 internal affairs investigator investigating</p> <p>16 any municipal court magistrate.</p> <p>17 Q. Okay. Now, in 1991 were you involved in an</p> <p>18 investigation of any magistrate with the</p> <p>19 judicial department of the City of Dothan?</p> <p>20 A. No, sir.</p> <p>21 Q. I'm sorry. What year did I say?</p> <p>22 A. No, sir. Mr. Gray.</p> <p>23 Q. If I said 1991, I'm sorry.</p>

9 (Pages 33 to 36)

367 VALLEY AVENUE
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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 37</p> <p>1 A. You did.</p> <p>2 Q. And I'm going to get stuck with these wrong</p> <p>3 words coming out of my mouth.</p> <p>4 So let's make that 2001. In 2001, were</p> <p>5 you involved in an investigation of any</p> <p>6 magistrate employed with the judicial</p> <p>7 department of the City of Dothan?</p> <p>8 A. Yes, sir.</p> <p>9 MR. JAFFREE: I've got to remember the</p> <p>10 deponent is clever and intelligent,</p> <p>11 and I don't need to be half focused</p> <p>12 today. I just don't.</p> <p>13 Q. But do you recall upon whose request you were</p> <p>14 involved in that investigation?</p> <p>15 MS. NELSON: Can we clarify the</p> <p>16 investigation and --</p> <p>17 Q. Was there more than one investigation you was</p> <p>18 involved in, in 2001?</p> <p>19 A. Well, there's a lot of investigations here</p> <p>20 that you're going to depose me on I guess.</p> <p>21 So --</p> <p>22 Q. Were there a lot of them that existed in 2001?</p> <p>23 A. It depends on what you mean "a lot of." But</p>	<p style="text-align: right;">Page 39</p> <p>1 A. Yes, if you have that --</p> <p>2 Q. But if you remember on your own</p> <p>3 independently.</p> <p>4 A. If you have that, it was either -- either one</p> <p>5 of two people, but if you can provide the</p> <p>6 document --</p> <p>7 Q. Who do you think would be the two people?</p> <p>8 A. Either it was Chief White or either Captain</p> <p>9 Parrish. But --</p> <p>10 Q. It could have been a third person?</p> <p>11 MS. NELSON: I'll show him my document,</p> <p>12 but if you have a certain one you want</p> <p>13 to show him.</p> <p>14 Q. Well, let me --</p> <p>15 A. It was Chief White.</p> <p>16 Q. I don't think so. I believe it was -- Chief</p> <p>17 White is not the person I had in mind.</p> <p>18 MS. NELSON: Well, you're asking the</p> <p>19 witness who is under oath who is</p> <p>20 sitting here looking at this memo from</p> <p>21 Chief White to him, directing the</p> <p>22 investigation.</p> <p>23 Q. This is a transcript of a statement of Mary</p>
<p style="text-align: right;">Page 38</p> <p>1 there are several investigations every year,</p> <p>2 dealing with internal affairs.</p> <p>3 Q. Well, I'm talking about involving an</p> <p>4 employee -- a magistrate employee of the</p> <p>5 judicial department of the City of Dothan?</p> <p>6 A. I don't think there was a lot of them in 2001.</p> <p>7 Q. Well, how many do you recall you've been</p> <p>8 involved in, in 2001 involving a magistrate of</p> <p>9 the judicial department?</p> <p>10 A. I believe you're referring to the Kimberly</p> <p>11 Ralpeje case.</p> <p>12 Q. Yeah, that one. Let's settle upon that one.</p> <p>13 A. Yes, sir, I was involved in that.</p> <p>14 Q. Do you recall upon whose request you was</p> <p>15 involved in that investigation?</p> <p>16 MS. NELSON: And, again, I would state for</p> <p>17 the Record, if he can -- to the extent</p> <p>18 that he can remember. But if he needs</p> <p>19 to look at documents, I would ask you</p> <p>20 to put the documents before him.</p> <p>21 Q. If you can. I will provide you with some</p> <p>22 assistance. I could let you read your own</p> <p>23 words, if you'd like.</p>	<p style="text-align: right;">Page 40</p> <p>1 Brackin that was done in 2001, and the</p> <p>2 relevant part of the statement can be found on</p> <p>3 page three.</p> <p>4 Do you have it in front of you?</p> <p>5 A. Captain Monday was the bureau commander which</p> <p>6 he was over internal affairs as well. So</p> <p>7 it --</p> <p>8 Q. Well, that's not who I had in mind either.</p> <p>9 A. But you ask if there was any other third</p> <p>10 person. Chief White. It would have come from</p> <p>11 either Chief White, Captain Monday, or</p> <p>12 possibly Captain Parrish.</p> <p>13 Q. That's unfair. I probably didn't ask the</p> <p>14 question correctly. And I think your response</p> <p>15 is correct as far as it goes, based on the way</p> <p>16 I asked the question.</p> <p>17 But let me show you --</p> <p>18 MR. JAFFREE: Let me mark this. I guess</p> <p>19 I -- I don't have another copy so</p> <p>20 maybe I can get this back between</p> <p>21 today and tomorrow morning.</p> <p>22 MS. NELSON: Could you show me what you're</p> <p>23 about to ask him. I'm not sure I have</p>

10 (Pages 37 to 40)

367 VALLEY AVENUE
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FREEDOM COURT REPORTING

Page 41	Page 43
<p>1 the Bates stamp on here.</p> <p>2 MR. JAFFREE: The Bates stamp is 1278.</p> <p>3 MS. NELSON: You're at Mary Beth Brackin's</p> <p>4 testimony.</p> <p>5 MR. JAFFREE: Uh-huh (positive response).</p> <p>6 (Plaintiff's Exhibit 14 was marked</p> <p>7 for identification.)</p> <p>8 Q. Look at the bottom of what has been marked as</p> <p>9 Plaintiffs' Exhibit Number 14.</p> <p>10 A. Yes, sir.</p> <p>11 Q. Now, I have highlighted that. The highlight</p> <p>12 was not on the original, but I highlighted it</p> <p>13 for my own purposes. And I don't want to</p> <p>14 imply that it was given to me that way by the</p> <p>15 City's counsel.</p> <p>16 MR. JAFFREE: If I could have found more</p> <p>17 time, I would have made copies of</p> <p>18 this, but I'm just having trouble</p> <p>19 finding time in my day.</p> <p>20 Q. If you look at Exhibit 14, it does appear that</p> <p>21 Judge Gordon is the one that called for this</p> <p>22 investigation; is that correct?</p> <p>23 MS. NELSON: Object to the form.</p>	<p>1 Q. Who told you that?</p> <p>2 MS. NELSON: If you know.</p> <p>3 A. I'm -- it had to have been from the chief.</p> <p>4 Q. Okay. Now, I know it's going back a long</p> <p>5 time.</p> <p>6 A. That it is.</p> <p>7 Q. However, can I assume that one of the</p> <p>8 hallmarks of a good investigator is a good</p> <p>9 memory?</p> <p>10 MS. NELSON: Object to the form as to any</p> <p>11 assumption.</p> <p>12 Q. Is that a presumption?</p> <p>13 MS. NELSON: Object to the form.</p> <p>14 Q. Or is that a standard presumption that has</p> <p>15 some merit?</p> <p>16 MS. NELSON: Object to the form.</p> <p>17 A. Well, I guess with anything, it would come</p> <p>18 with the passage of time. So in order to</p> <p>19 refresh and reflect over things over the</p> <p>20 passage of time, there could be a lot more</p> <p>21 memory recall to answer your question.</p> <p>22 Q. Well, even though for the Record I do not</p> <p>23 acknowledge the City's counsel as functioning</p>
Page 42	Page 44
<p>1 A. If I remember correctly, your question is who</p> <p>2 assigned me to the investigation. And Judge</p> <p>3 Gordon did not assign me to the investigation.</p> <p>4 Q. Okay. But it says that she initiated the</p> <p>5 investigation; is that correct?</p> <p>6 MS. NELSON: Object to the form. The</p> <p>7 testimony will speak for itself.</p> <p>8 MR. JAFFREE: Well, I'm asking for the</p> <p>9 testimony.</p> <p>10 A. The judge is not my department head. I get my</p> <p>11 orders and directions from my department head</p> <p>12 or my supervisors. Judge Gordon did not come</p> <p>13 directly to me and ask me to investigate.</p> <p>14 Q. Can you read what you said there?</p> <p>15 A. "The judge asked for an investigation from the</p> <p>16 chief because he has the investigators that</p> <p>17 can actually look into something and has time</p> <p>18 to actually look into it."</p> <p>19 Q. Now, can I assume from your statement that</p> <p>20 somebody communicated to you that the judge</p> <p>21 had asked the chief to conduct an</p> <p>22 investigation?</p> <p>23 A. Yes.</p>	<p>1 as your counsel, I will not invade whatever</p> <p>2 province she had in preparing you. But did</p> <p>3 you review any records in preparation for this</p> <p>4 deposition?</p> <p>5 A. Yes.</p> <p>6 Q. Did you --</p> <p>7 (Brief interruption)</p> <p>8 MR. JAFFREE: I was just talking about</p> <p>9 memory, and mine has gone blank as to</p> <p>10 where I was.</p> <p>11 MS. NELSON: You asked him if he had</p> <p>12 reviewed any records.</p> <p>13 MR. JAFFREE: I'm not an investigator and</p> <p>14 I'm getting old in the tooth, long in</p> <p>15 the tooth or somewhere. I've got you</p> <p>16 by a few years.</p> <p>17 Where was I at?</p> <p>18 Do you want to read back where I</p> <p>19 was at? What was the last thing I</p> <p>20 said?</p> <p>21 (Court reporter read from the</p> <p>22 Record.)</p> <p>23 Q. Did you review some transcripts of the</p>

11 (Pages 41 to 44)

367 VALLEY AVENUE
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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 45</p> <p>1 testimony that you had gathered during your</p> <p>2 investigations?</p> <p>3 A. Some of them.</p> <p>4 Q. But not necessarily this transcript?</p> <p>5 MS. NELSON: This one being --</p> <p>6 Q. The one that you're reviewing now, the</p> <p>7 transcript of --</p> <p>8 MS. NELSON: Your Plaintiffs' Exhibit 14?</p> <p>9 MR. JAFFREE: Yeah.</p> <p>10 MS. NELSON: That page?</p> <p>11 MR. JAFFREE: Yeah, that page.</p> <p>12 A. No, I didn't.</p> <p>13 Q. All right. Do you know pursuant to what</p> <p>14 authority Judge Gordon may have</p> <p>15 instructed -- help me with the right word --</p> <p>16 suggested, encouraged, ordered your chief to</p> <p>17 appoint you to do this investigation?</p> <p>18 A. No.</p> <p>19 Q. Which was the correct word, "suggested,"</p> <p>20 "ordered?"</p> <p>21 MS. NELSON: Object to the form.</p> <p>22 Q. "Instructed?"</p> <p>23 MS. NELSON: If he doesn't know -- object</p>	<p style="text-align: right;">Page 47</p> <p>1 Q. Would you feel comfortable in my suggestion</p> <p>2 that the judge initiated this investigation?</p> <p>3 MS. NELSON: Object to the form. I don't</p> <p>4 know if he can feel comfortable with</p> <p>5 you or not.</p> <p>6 A. No, sir.</p> <p>7 MR. JAFFREE: I don't know as from -- if</p> <p>8 he needs to banter with everything</p> <p>9 that you -- he may feel comfortable.</p> <p>10 MS. NELSON: Well, ask him a question, not</p> <p>11 if he will feel comfortable with or --</p> <p>12 MR. JAFFREE: To move this along --</p> <p>13 MS. NELSON: Ask him if he has knowledge.</p> <p>14 Q. Do you know whether or not the judge, based on</p> <p>15 hearsay or whatever, the judge initiated this</p> <p>16 investigation?</p> <p>17 MS. NELSON: If you know.</p> <p>18 A. No, I don't 100 percent positively know.</p> <p>19 Q. Did you intend from that statement that you</p> <p>20 just read to be an empty statement, or was it</p> <p>21 based on facts at the time?</p> <p>22 A. Whenever -- and to clarify me saying, no, I</p> <p>23 don't work for the judge. I don't know who</p>
<p style="text-align: right;">Page 46</p> <p>1 to the form.</p> <p>2 MR. JAFFREE: Well, the question --</p> <p>3 MS. NELSON: If you know. That's fine.</p> <p>4 MR. JAFFREE: There's two parts to that</p> <p>5 question. One was, pursuant to what</p> <p>6 authority, and the other part is which</p> <p>7 is the correct verb.</p> <p>8 MS. NELSON: Well, I'm not trying to take</p> <p>9 the deposition. I'm trying to speed</p> <p>10 things along.</p> <p>11 Object to form. If you want to</p> <p>12 ask him if he has any knowledge of how</p> <p>13 the investigation came about, other</p> <p>14 than the chief giving him --</p> <p>15 MR. JAFFREE: Well, no. I want to ask</p> <p>16 him:</p> <p>17 Q. Do you know pursuant to what authority the</p> <p>18 judge initiated this investigation?</p> <p>19 MS. NELSON: Object to the form.</p> <p>20 A. No.</p> <p>21 MS. NELSON: I'm not sure if he testified</p> <p>22 that he knows for certain that the</p> <p>23 judge initiated it.</p>	<p style="text-align: right;">Page 48</p> <p>1 the judge sends. I -- I don't -- I'm not a</p> <p>2 part of her department. So when it came to</p> <p>3 me, it came to me through the chief.</p> <p>4 Now, whatever channels happened between</p> <p>5 the chief and the judge, that's what I'm</p> <p>6 saying that I don't know. How -- how it got</p> <p>7 from the judge to the chief, how she made up</p> <p>8 her mind to do that and all that, I was not a</p> <p>9 party of. How it was assigned to me, I wasn't</p> <p>10 a party of. When I'm told to do an</p> <p>11 investigation by the chief, I do it.</p> <p>12 Q. All right. Let me ask you this: Do you know</p> <p>13 for a fact -- I'm sorry. Let me back up.</p> <p>14 What chief told you to conduct this</p> <p>15 investigation; what was the name of that</p> <p>16 chief?</p> <p>17 A. John White.</p> <p>18 Q. All right. Do you know what independent facts</p> <p>19 that Judge White (sic) had concerning the</p> <p>20 incident that you was investigating prior to</p> <p>21 your initiating the investigation?</p> <p>22 A. No, I don't know the facts that he had. He</p> <p>23 did direct me to talk to the judge about the</p>

12 (Pages 45 to 48)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 49</p> <p>1 investigation. He directed me.</p> <p>2 Q. So you did, at some point, talk to the judge?</p> <p>3 A. Yes.</p> <p>4 Q. Did you make a transcript of that discussion?</p> <p>5 A. No.</p> <p>6 Q. Why not?</p> <p>7 A. I just didn't.</p> <p>8 Q. All right. Do you recall what the judge may</p> <p>9 have said to you?</p> <p>10 A. Yes. That when it had come to her attention</p> <p>11 that Mary Beth Brackin possibly made</p> <p>12 statements to a defendant in a criminal case</p> <p>13 in her court, that her attorney that was</p> <p>14 representing her was basically incompetent --</p> <p>15 and those aren't the words that she used.</p> <p>16 Those are what I'm paraphrasing.</p> <p>17 Q. Well, don't paraphrase. What were the words</p> <p>18 she used?</p> <p>19 A. I can't -- I don't remember the exact words.</p> <p>20 Q. Oh, okay.</p> <p>21 A. Just that there was some possible misconduct</p> <p>22 from Mary Beth Brackin, insinuating that</p> <p>23 Ms. Ralpeje may want to seek another attorney</p>	<p style="text-align: right;">Page 51</p> <p>1 MS. NELSON: But he said not necessarily</p> <p>2 this one.</p> <p>3 MR. JAFFREE: Well, he said not</p> <p>4 necessarily the transcript.</p> <p>5 MS. NELSON: Well, you didn't ask him</p> <p>6 about the memo. Anyway, he can --</p> <p>7 MR. JAFFREE: Well, I didn't know his</p> <p>8 review was limited because I thought</p> <p>9 that --</p> <p>10 MS. NELSON: Well, you didn't ask him.</p> <p>11 MR. JAFFREE: If he was prepared, he would</p> <p>12 be reviewing what I may cover.</p> <p>13 MS. NELSON: You know, he can sit here and</p> <p>14 review it all day if he needs to.</p> <p>15 A. Specifically, that a magistrate which was to</p> <p>16 be Mary Brackin told Ms. Ralpeje that she</p> <p>17 should ask for another lawyer because they had</p> <p>18 many complaints about Shaun, referring to</p> <p>19 Attorney Shaun McGhee, and the first thing she</p> <p>20 should do is get rid of Shaun.</p> <p>21 Q. That the first thing who should do is get rid</p> <p>22 of Shaun?</p> <p>23 A. Ms. McGhee -- excuse me. Ms. Ralpeje.</p>
<p style="text-align: right;">Page 50</p> <p>1 because of her attorney giving her some</p> <p>2 information that she thought wasn't good.</p> <p>3 Q. So in essence, your investigation was to see</p> <p>4 if Mary Brackin had bad mouthed another</p> <p>5 attorney -- I'm sorry -- an attorney, not</p> <p>6 another attorney, an attorney?</p> <p>7 MS. NELSON: Object to the form.</p> <p>8 A. Giving legal advice to a defendant of a case</p> <p>9 when her job description didn't reflect that</p> <p>10 that was one of her duties.</p> <p>11 Q. What was the legal advice she had given?</p> <p>12 A. Now, you said that's what the allegations</p> <p>13 were, and that's what I was told to</p> <p>14 investigate. So --</p> <p>15 Q. But what was the legal advice that she had</p> <p>16 allegedly gave to Ms. Ralpeje?</p> <p>17 A. Just a second.</p> <p>18 MS. NELSON: He's reviewing --</p> <p>19 MR. JAFFREE: Sure.</p> <p>20 MS. NELSON: -- a memo he did like six</p> <p>21 years ago.</p> <p>22 MR. JAFFREE: But he indicated he had</p> <p>23 reviewed some of this record.</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. Ms. Ralpeje --</p> <p>2 A. Yes.</p> <p>3 Q. -- should get rid of Shaun.</p> <p>4 So the judge told you that she had heard</p> <p>5 that?</p> <p>6 A. The judge advised me that -- that her</p> <p>7 employee, Ms. Brackin, made -- there were</p> <p>8 allegations that she made statements to</p> <p>9 Ms. Ralpeje that Mr. McGhee gave her some --</p> <p>10 pretty much bad advice. And that's not -- I'm</p> <p>11 paraphrasing the words, that the allegations</p> <p>12 were that Ms. Brackin overstepped her</p> <p>13 authority as a magistrate by providing -- by</p> <p>14 telling a defendant in a case that her counsel</p> <p>15 was inadequate.</p> <p>16 Q. But that constitutes pretty much the bulk of</p> <p>17 the discussion you had with Judge Gordon?</p> <p>18 A. That was the gist of it.</p> <p>19 Q. Can you think of anything else that she may</p> <p>20 have said at the time?</p> <p>21 A. Yes. There were some parties -- there were</p> <p>22 some other people that may have been a party</p> <p>23 to that discussion which was a bondsman by the</p>

13 (Pages 49 to 52)

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FREEDOM COURT REPORTING

Page 53	Page 55
<p>1 name -- last name of Turner. Also -- and I</p> <p>2 don't -- yeah, I believe that was it. There</p> <p>3 was another party to the -- to that statement,</p> <p>4 and it was the bondsman by -- by the name of</p> <p>5 Turner.</p> <p>6 Q. Okay. When you talked to the judge, did you</p> <p>7 view your role as, "Just the facts, ma'am?"</p> <p>8 MS. NELSON: Object to the form.</p> <p>9 A. Can you clarify what you mean?</p> <p>10 Q. That's fair enough.</p> <p>11 Did you view your role as just soliciting</p> <p>12 facts to see whether or not the allegation was</p> <p>13 true?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Do you think you ultimately did more than just</p> <p>16 solicit the facts to see if the allegation was</p> <p>17 true?</p> <p>18 A. In what way?</p> <p>19 Q. That you became an advocate?</p> <p>20 A. For who, just an advocate in general?</p> <p>21 Q. An advocate recommending punishment,</p> <p>22 recommending sanction?</p> <p>23 MS. NELSON: Object to the form.</p>	<p>1 Q. Yeah. Just prior to your --</p> <p>2 A. Prior to even talking to her?</p> <p>3 Q. Prior to taking her statement, yeah.</p> <p>4 A. Hold on.</p> <p>5 Q. I'm not trying to trap you. You did give her</p> <p>6 a Garrity notice.</p> <p>7 A. I would have.</p> <p>8 MS. NELSON: Well, again, I'd object to</p> <p>9 the form. Do you know you did?</p> <p>10 MR. JAFFREE: Yeah. It's part of the --</p> <p>11 MS. NELSON: It is? Where?</p> <p>12 MR. JAFFREE: Right here (indicating).</p> <p>13 Q. I'm not saying this to try to trap you, I'm</p> <p>14 just simply trying to get to a point.</p> <p>15 MS. NELSON: Okay.</p> <p>16 Q. This is both aside for the Record, that I'm</p> <p>17 not as -- well, I don't want to have to call</p> <p>18 it clever, but there's a propensity for</p> <p>19 investigators to say: I'm not trying to trap</p> <p>20 you, I'm not trying to -- not trying to be</p> <p>21 slick or anything, I'm just trying to get some</p> <p>22 facts.</p> <p>23 But it seems like the intent is to trap.</p>
Page 54	Page 56
<p>1 A. No, sir.</p> <p>2 Q. You don't think so?</p> <p>3 A. No.</p> <p>4 Q. Well, we'll get into that in a minute, but let</p> <p>5 me go back again.</p> <p>6 Based on what the judge told you, as you</p> <p>7 have just stated, from your experience, which</p> <p>8 is quite lengthy as a member of the police</p> <p>9 force, is there a potential crime in any of</p> <p>10 that allegation, a criminal activity in any of</p> <p>11 that allegation?</p> <p>12 A. Not that I know of. And that wasn't -- I</p> <p>13 wasn't investigating it as a criminal</p> <p>14 investigator. I was investigating it as an</p> <p>15 administrative investigator.</p> <p>16 Q. Do you know if prior to your discussion with</p> <p>17 Ms. Brackin you gave her a Garrity notice?</p> <p>18 A. I wouldn't have.</p> <p>19 Q. You wouldn't have?</p> <p>20 A. No.</p> <p>21 Q. Do you know if anyone gave her the Garrity</p> <p>22 notice?</p> <p>23 A. You're saying prior to an interview?</p>	<p>1 But --</p> <p>2 MS. NELSON: Object to the form. Object</p> <p>3 to your statement. Object to your</p> <p>4 speculations.</p> <p>5 MR. JAFFREE: Well, I mean, it's all part</p> <p>6 of the record.</p> <p>7 Q. But be that as it may, why did you give her a</p> <p>8 Garrity warning if there was no possibility of</p> <p>9 any criminal charges coming from this?</p> <p>10 MS. NELSON: Object to the form. I don't</p> <p>11 know that he ever testified that there</p> <p>12 was no possibility of any criminal</p> <p>13 activity coming from it.</p> <p>14 Q. Based on the information that you had gathered</p> <p>15 from the judge during your interview,</p> <p>16 unrecorded with the judge, what possible</p> <p>17 criminal charges could be brought against</p> <p>18 Ms. Brackin, based on the facts that was</p> <p>19 before you at the time?</p> <p>20 MS. NELSON: Object to the form.</p> <p>21 A. If -- if I were assigned to it initially,</p> <p>22 there -- to my knowledge, there wouldn't have</p> <p>23 been any criminal activity that I know of</p>

14 (Pages 53 to 56)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 57</p> <p>1 afoot for me to even have received that</p> <p>2 investigation. That would've gone to the</p> <p>3 criminal investigations division.</p> <p>4 Q. Well, do you know the purpose of the garrrity</p> <p>5 notice or the garrrity warning?</p> <p>6 A. Yes.</p> <p>7 Q. What do you think is the purpose?</p> <p>8 A. I think the purpose is to advise a</p> <p>9 governmental employee, which Ms. Mary Brackin</p> <p>10 was a part of the City of Dothan government,</p> <p>11 that they are compelled to answer truthfully</p> <p>12 questions as it relates to an administrative</p> <p>13 investigation only, and that anything that</p> <p>14 they say in regards to that administrative</p> <p>15 investigation is not and will not be used in a</p> <p>16 subsequent criminal investigation.</p> <p>17 Q. Do you know why the garrrity rule was required?</p> <p>18 MS. NELSON: Object to the form. That</p> <p>19 calls for a conclusion of law. But to</p> <p>20 the extent he knows --</p> <p>21 Q. Yeah, if he knows. I mean, are you familiar</p> <p>22 with the garrrity --</p> <p>23 (Court reporter interrupted for</p>	<p style="text-align: right;">Page 59</p> <p>1 investigation. And so you shield that</p> <p>2 information from any subsequent criminal</p> <p>3 investigation.</p> <p>4 MS. NELSON: Object to your formal</p> <p>5 statement, but if you understand.</p> <p>6 Q. Do you think -- do you agree that that's sort</p> <p>7 of part of it?</p> <p>8 A. Sir, actually, what I stated earlier was</p> <p>9 basically the same thing you said but in a</p> <p>10 different form, in my opinion.</p> <p>11 Q. Now, isn't it true that during your</p> <p>12 investigation or during your -- do you call it</p> <p>13 interrogation or do you call investigation?</p> <p>14 When you do your internal affairs</p> <p>15 investigation, do you consider yourself</p> <p>16 interrogating the witness?</p> <p>17 MS. NELSON: Object to the form.</p> <p>18 A. I'm investigating the allegations, and</p> <p>19 witnesses are questioned as it relates to</p> <p>20 information that I obtained during the</p> <p>21 investigation.</p> <p>22 Q. Would you be comfortable with term that you</p> <p>23 also interrogate the witnesses?</p>
<p style="text-align: right;">Page 58</p> <p>1 clarification.)</p> <p>2 MS. NELSON: Object that it calls for a</p> <p>3 legal conclusion.</p> <p>4 A. What was your question again?</p> <p>5 Q. Were you familiar with the garrrity case from</p> <p>6 which the rule, the policy, the notice</p> <p>7 derived?</p> <p>8 A. I'm not an attorney. I could give you a</p> <p>9 ballpark, but I can't give you any -- I can't</p> <p>10 just state specifically as -- as you probably</p> <p>11 could. I don't know the entire history. I</p> <p>12 think I've read it, but I haven't reduced it</p> <p>13 to memory.</p> <p>14 Q. Do you understand that garrrity is designed to,</p> <p>15 on one hand, protect somebody's Fifth</p> <p>16 Amendment rights and, on the other hand, allow</p> <p>17 information to be gathered that can be useful</p> <p>18 in administrative cases? But the purpose is</p> <p>19 to avoid somebody from being -- having to make</p> <p>20 the Hobson's Choice of sacrificing Fifth</p> <p>21 Amendment rights or sacrificing their job and,</p> <p>22 therefore, compelling testimony from people</p> <p>23 that can be used in a subsequent criminal</p>	<p style="text-align: right;">Page 60</p> <p>1 MS. NELSON: Object to the form.</p> <p>2 A. No, sir.</p> <p>3 Q. You wouldn't be comfortable with that?</p> <p>4 A. No, sir.</p> <p>5 Q. You understand, of course, that some of the</p> <p>6 witnesses are apprehensive?</p> <p>7 A. They could be.</p> <p>8 Q. Do you remember what Ms. Brackin's position</p> <p>9 was with respect to the allegation that she</p> <p>10 had accused an attorney of literally being</p> <p>11 incompetent, and there's been several</p> <p>12 complaints against this attorney?</p> <p>13 A. Yes.</p> <p>14 Q. She did deny the allegation, correct?</p> <p>15 A. Correct.</p> <p>16 Q. She also indicated that she hardly knew that</p> <p>17 attorney, correct?</p> <p>18 A. No, that's incorrect.</p> <p>19 Q. That's not correct?</p> <p>20 A. No, sir. She said that she thought that they</p> <p>21 had a -- a very -- quote, unquote, had a very</p> <p>22 good rapport with Mr. McGhee.</p> <p>23 Q. But she also said, quote, I'd only worked with</p>

15 (Pages 57 to 60)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 61</p> <p>1 him one time in court, unquote. 2 MS. NELSON: What are you reading from? 3 MR. JAFFREE: Number 1281, page 6. 4 MS. NELSON: Page 6. 5 Q. Matter of fact, I did my statement a 6 injustice. To read the complete paragraph of 7 what she said, that's even an injustice. Let 8 me read you a question of hers. 9 "Okay. And -- but do you know Shaun 10 McGhee?" 11 Answer: "Yes." 12 That's Mary Beth's answer. 13 Here's your question -- I'm not -- not 14 your question. This is Mr Coleman's question, 15 but you was there when Coleman was asking 16 these questions, correct? 17 A. Yes, sir. 18 Q. Mr. Coleman said, "Well, how long have you 19 known Shaun McGhee?" 20 Her response: "I don't really -- I think 21 I was introduced to him, you know. It was 22 either while we were in court and he -- right 23 before he became the public defender. But as</p>	<p style="text-align: right;">Page 63</p> <p>1 what you just read, it says that when she met 2 him, it was in court. This document doesn't 3 say how long they may have known each other, 4 and it doesn't give a specific date on when 5 they were in court when they met. So I cannot 6 assume just by this document that this is the 7 first time they met because that's not what it 8 says as far as how long they've known each 9 other. 10 Q. Well, do you generally get introduced to 11 people that you have known for a long time? 12 MS. NELSON: Object to the form. 13 Q. As far as you know, the term, I was introduced 14 to him? 15 A. To answer your question, no. 16 Q. Let me just see if I can speed this along. 17 You agree that she denied the 18 allegations. Would you also agree that 19 Ms. Rapaport did not confirm the allegations? 20 MS. NELSON: Ms. Ralpeje. 21 A. Ms. Ralpeje? 22 Q. Sorry. Ms. Ralpeje did not confirm the 23 allegations. If you recall. I got the record</p>
<p style="text-align: right;">Page 62</p> <p>1 far as -- I'd only worked with him one time in 2 court." 3 So based on -- 4 MS. NELSON: Well, you're not going on 5 to -- if you'd go on. 6 MR. JAFFREE: Well, I don't want to go on. 7 MS. NELSON: You don't want to go on? 8 Okay. Well, I'd ask that the Record 9 be complete as to the rest of the 10 statement, that she had a good rapport 11 from him -- with him. 12 MR. JAFFREE: Well, okay. Since you 13 insist. 14 Q. Mr. Coleman said, "Okay." 15 And Ms. Brackin said, "and I had a very 16 good rapport with him. And, in fact, I told 17 Donna that, you know, he was going to be a -- 18 be good for us, that he had done a real good 19 job." 20 Now, you understand, she's referring to 21 the one time she saw him, correct? 22 MS. NELSON: Object to the form. 23 A. Not to twist everything up, but according to</p>	<p style="text-align: right;">Page 64</p> <p>1 here, so if you don't recall, then that's 2 fine. 3 MS. NELSON: Well, he hadn't had a chance 4 to look at it, but the report can 5 speak for itself I believe -- 6 MR. JAFFREE: Well, the report can. 7 MS. NELSON: -- if he can't recall. If 8 you can recall, please take your time. 9 THE WITNESS: Okay. 10 A. Based on my interview with Ms. Ralpeje, in 11 regards to what was said, Ms. Ralpeje told 12 Ms. Mary Beth that if her lawyer instructed 13 her to plead guilty to DUI the first time and 14 he advised her to appeal it, it does not seem 15 like he's a very good lawyer. This came from 16 Mr. -- Ms. Ralpeje. 17 Q. I'm talking about -- I'm not talking about 18 your summarization. I mean, Ms. Ralpeje's 19 statement itself. 20 A. This was -- come from what Ms. Ralpeje told 21 me. 22 Q. Well, Ms. Ralpeje did not indicate that 23 Ms. Brackin had told her that the lawyer was</p>

16 (Pages 61 to 64)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 65</p> <p>1 incompetent or that there were numerous</p> <p>2 complaints against him.</p> <p>3 A. Can I review her -- the statement I took with</p> <p>4 her?</p> <p>5 MS. NELSON: Again, I -- because, yeah. I</p> <p>6 object to your testifying as to what</p> <p>7 Ms. Rapelje said.</p> <p>8 (Brief pause)</p> <p>9 A. Confirming what I said just a minute ago, in</p> <p>10 Ms. Rapelje's statement I've got, quote, what</p> <p>11 I read to her and what I said to her and what</p> <p>12 she responded back.</p> <p>13 My statement was, "I mean, just if you</p> <p>14 want to paraphrase it, paraphrase it. Say,</p> <p>15 this isn't the exact words, but as much you</p> <p>16 can remember, just" --</p> <p>17 Ms. Rapelje's reply was, "Okay. She" --</p> <p>18 she, meaning Ms. Brackin. "She basically gave</p> <p>19 me an option -- an opinion that if he told</p> <p>20 you, you know, if he instructed me to, you</p> <p>21 know, plead guilty the first time and then</p> <p>22 there -- and then here it is a week later and</p> <p>23 now he's instructing me to appeal it, that</p>	<p style="text-align: right;">Page 67</p> <p>1 confirm any of that allegation about the</p> <p>2 incompetence or numerous complaints?</p> <p>3 A. She did not.</p> <p>4 Q. So what you have is a probation officer saying</p> <p>5 one thing, who was on the phone most of the</p> <p>6 time by eyewitness accounts and was spending</p> <p>7 time talking as opposed to listening, and you</p> <p>8 have the people that was intimately involved</p> <p>9 that didn't confirm it.</p> <p>10 MS. NELSON: Object to your</p> <p>11 characterization.</p> <p>12 Q. Well, I'm mentioning this because I'm going to</p> <p>13 ask you a question.</p> <p>14 And would you agree that for some reason</p> <p>15 you interviewed Donna -- what's Donna's last</p> <p>16 name?</p> <p>17 A. The same person we're talking back?</p> <p>18 Grumbach?</p> <p>19 Q. No, no. Not her. Is it Donna? I think</p> <p>20 it's -- yeah. Donna Nicholson. Do you agree</p> <p>21 that you interviewed Donna Nicholson?</p> <p>22 (Brief pause)</p> <p>23 Q. Do you remember whether you interviewed Donna</p>
<p style="text-align: right;">Page 66</p> <p>1 doesn't seem like he's a very good lawyer."</p> <p>2 Q. Now -- go ahead.</p> <p>3 (Brief pause)</p> <p>4 MS. NELSON: Did that not respond to your</p> <p>5 question?</p> <p>6 MR. JAFFREE: Not really because</p> <p>7 she -- she was saying, if what you've</p> <p>8 told me is true -- and the first part</p> <p>9 of Ms. Rapelje's statement was that</p> <p>10 she was drunk at the time and can't</p> <p>11 rely on her memory.</p> <p>12 Q. But, also, the part of my question dealt with</p> <p>13 her saying that Ms. Brackin had said, we had</p> <p>14 numerous complaints against him. You won't</p> <p>15 find that at all in her testimony.</p> <p>16 A. That's correct.</p> <p>17 Q. There's Donna Grumbach was right next to her</p> <p>18 who didn't confirm any of that either.</p> <p>19 MS. NELSON: Are you testifying,</p> <p>20 Mr. Jaffree?</p> <p>21 MR. JAFFREE: Well, I'm asking him if --</p> <p>22 MS. NELSON: Is that a question?</p> <p>23 Q. Do you agree that Donna Grumbach did not</p>	<p style="text-align: right;">Page 68</p> <p>1 Nicholson?</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall attempting "every which way but</p> <p>4 loose" to get Ms. Nicholson to agree to</p> <p>5 discipline Ms. Brackin?</p> <p>6 MS. NELSON: Object to the form.</p> <p>7 A. No.</p> <p>8 Q. Do you agree discussing with her all the</p> <p>9 different types of theories that she could</p> <p>10 discipline Ms. Brackin with?</p> <p>11 MS. NELSON: Object to the form.</p> <p>12 A. No.</p> <p>13 Q. You don't remember that, huh? Okay.</p> <p>14 A. If you can show me something specifically,</p> <p>15 I'll be glad to --</p> <p>16 Q. There's so much of it in here, but I won't</p> <p>17 take the time. I mean, if you don't know,</p> <p>18 that's fine.</p> <p>19 What was your purpose of interviewing</p> <p>20 Ms. Nicholson in the first place?</p> <p>21 A. She was one of the employees over there at the</p> <p>22 magistrates' office. She was I think acting</p> <p>23 in the capacity of -- as the supervisor at</p>

17 (Pages 65 to 68)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 69</p> <p>1 this time.</p> <p>2 Q. Wasn't she more than that? Wasn't she</p> <p>3 administrator of the department?</p> <p>4 A. Could have been, but, like, she supervises the</p> <p>5 magistrates.</p> <p>6 Q. She was in charge of the department, and, yet</p> <p>7 the judge instigated this investigation.</p> <p>8 Now, if the judge has said that she don't</p> <p>9 have the time to investigate and that's why</p> <p>10 she used the police department --</p> <p>11 MS. NELSON: Object to the form. That's</p> <p>12 your testimony. That was not her</p> <p>13 testimony or all of her testimony.</p> <p>14 MR. JAFFREE: That's been her testimony a</p> <p>15 lot.</p> <p>16 Q. Do you have an opinion as to why Donna</p> <p>17 Nicholson could not have initiated this</p> <p>18 investigation?</p> <p>19 MS. NELSON: Object to his opinion.</p> <p>20 A. No, I don't have anything.</p> <p>21 Q. You don't recall discussing with Donna some of</p> <p>22 the -- asking her, why is it she just want to</p> <p>23 put this in the personnel file, why not bring</p>	<p style="text-align: right;">Page 71</p> <p>1 the necessity of reading it.</p> <p>2 MR. JAFFREE: I just want to make sure I'm</p> <p>3 not getting him confused with</p> <p>4 Mr. Coleman because they both</p> <p>5 interviewed her.</p> <p>6 Q. I mean, because your names are interspersed</p> <p>7 here. But let me let you read it. And if</p> <p>8 it's Coleman, then I apologize.</p> <p>9 A. You want me to read it?</p> <p>10 Q. Yeah.</p> <p>11 A. Want me to read it aloud?</p> <p>12 Q. Well, no, I don't want you to read it aloud.</p> <p>13 MS. NELSON: It's like ten pages.</p> <p>14 MR. JAFFREE: Yeah, it's a lot of pages.</p> <p>15 MS. NELSON: I mean, how could you be</p> <p>16 getting it confused with Mr. Coleman?</p> <p>17 MR. JAFFREE: Because I think he --</p> <p>18 Coleman was here and he said a few</p> <p>19 things. Coleman said a few things</p> <p>20 here. I don't want to --</p> <p>21 MS. NELSON: Well --</p> <p>22 MR. JAFFREE: -- confuse Coleman's --</p> <p>23 MS. NELSON: You know, it's 3:30. We've</p>
<p style="text-align: right;">Page 70</p> <p>1 some strong action against her. You don't</p> <p>2 recall that at all?</p> <p>3 A. No, sir.</p> <p>4 MS. NELSON: And I'd also ask for the</p> <p>5 Record to indicate that the witness is</p> <p>6 so bewildered by that, he's laughing</p> <p>7 and scoffing at such a suggestion.</p> <p>8 Q. I will take a break, if you like, and I'll let</p> <p>9 you read your interview with Ms. Nicholson.</p> <p>10 Would you like to do that?</p> <p>11 A. If that's what you want.</p> <p>12 Q. And if you -- after you read that, I will ask</p> <p>13 you if you still agree that you wasn't</p> <p>14 attempting to encourage Ms. Nicholson to come</p> <p>15 up with a much stronger sanction that just an</p> <p>16 entry in a personnel file, that that just</p> <p>17 won't do.</p> <p>18 But tell me if I'm wrong after you read it</p> <p>19 that --</p> <p>20 MS. NELSON: This is your testimony,</p> <p>21 Mr. Jaffree. Do you want him to sit</p> <p>22 here and read it? He's obviously</p> <p>23 disagreeing with you without the --</p>	<p style="text-align: right;">Page 72</p> <p>1 been here two hours.</p> <p>2 Q. Well, then you don't have to read it. All</p> <p>3 right.</p> <p>4 MS. NELSON: I'm just asking you. Do you</p> <p>5 have a specific --</p> <p>6 MR. JAFFREE: Okay. Well --</p> <p>7 MS. NELSON: He's disagreed with you.</p> <p>8 MR. JAFFREE: He disagreed. Fine.</p> <p>9 MS. NELSON: If you want to point to a --</p> <p>10 MR. JAFFREE: That's fine --</p> <p>11 MS. NELSON: -- particular piece of</p> <p>12 testimony or transcript --</p> <p>13 (Court reporter interrupted for</p> <p>14 clarification.)</p> <p>15 MS. NELSON: I said, if you want to point</p> <p>16 to a particular part of this</p> <p>17 transcript to question him about,</p> <p>18 because he's otherwise denied doing</p> <p>19 what you asked him about.</p> <p>20 MR. JAFFREE: Now, I will only suggest</p> <p>21 that when we're no longer on the</p> <p>22 Record if he wants to read your copy</p> <p>23 of the transcript, he can, so that he</p>

18 (Pages 69 to 72)

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FREEDOM COURT REPORTING

Page 73	Page 75
<p>1 can be satisfied that I'm not making</p> <p>2 this up.</p> <p>3 Q. Now, after your investigation of this</p> <p>4 incident, did you have an occasion to speak</p> <p>5 back with Judge Gordon?</p> <p>6 A. Speak or report -- give a report?</p> <p>7 Q. Give a report to Judge Gordon?</p> <p>8 A. Yes. There was a report that I submitted to</p> <p>9 the police chief that was then sent to the</p> <p>10 judge.</p> <p>11 Q. Do you know if this report included the</p> <p>12 statements of the parties?</p> <p>13 A. No, I don't recall if it had a copy of the</p> <p>14 statements of the parties.</p> <p>15 Q. Well, if it didn't have the statements, then</p> <p>16 it just had your summary; is that correct?</p> <p>17 A. I said I didn't recall it having the</p> <p>18 transcripts. It could have, but I don't</p> <p>19 recall it having the transcripts.</p> <p>20 Q. You're not sure. All right. Believe it or</p> <p>21 not, I'm almost through with you.</p> <p>22 Let me ask you if you can recall the</p> <p>23 second time you did an investigation involving</p>	<p>1 unlawful or -- or the unauthorized release of</p> <p>2 information and involving Mary Turner, the</p> <p>3 same thing -- same thing you're talking about.</p> <p>4 Q. What supposedly was the scope of that</p> <p>5 investigation?</p> <p>6 MS. NELSON: Which investigation are we</p> <p>7 talking about?</p> <p>8 MR. JAFFREE: The investigation we were</p> <p>9 just talking about, the one</p> <p>10 involving --</p> <p>11 MS. NELSON: Mary Turner?</p> <p>12 MR. JAFFREE: Well, no. I'm talking about</p> <p>13 the one involving the release of</p> <p>14 information concerning Mary Turner.</p> <p>15 MS. NELSON: Well, it's hard, you know,</p> <p>16 just to make a gigantic leap -- as you</p> <p>17 call the being pregnant and having the</p> <p>18 baby, it's hard to make a leap to like</p> <p>19 the second baby, what you're asking</p> <p>20 him to do.</p> <p>21 MR. JAFFREE: With the --</p> <p>22 MS. NELSON: I mean, I know you're trying</p> <p>23 to speed things along.</p>
Page 74	Page 76
<p>1 Ms. Brackin -- well, let me back it up. Not</p> <p>2 necessarily involving Ms. Brackin. Involving</p> <p>3 someone associated with the judicial</p> <p>4 department back in -- let's just say 2005?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Do you remember doing an investigation because</p> <p>7 there was a statement on Rickey Stokes' web</p> <p>8 site indicating that an internal affairs --</p> <p>9 some type of investigation was being conducted</p> <p>10 on Mary Turner?</p> <p>11 A. Yes.</p> <p>12 Q. Who initiated that investigation that you were</p> <p>13 involved in?</p> <p>14 A. That would have come -- as I said, our</p> <p>15 investigations, if it came from a different</p> <p>16 department, would come from the department</p> <p>17 head or his designee. I believe this one came</p> <p>18 from --</p> <p>19 MS. NELSON: He's referring to his memo to</p> <p>20 chief of police regarding this</p> <p>21 investigation.</p> <p>22 A. Chief Powell was the one that advised me to</p> <p>23 begin the investigation as it relates to the</p>	<p>1 Q. The release of information concerning</p> <p>2 Ms. Turner, what was supposed to be the scope</p> <p>3 of that investigation?</p> <p>4 A. The magistrates' office had been advised by</p> <p>5 Judge Gordon to not release any information to</p> <p>6 anyone regarding the Mary Turner investigation</p> <p>7 where she was put on administrative leave.</p> <p>8 After the judge advised her employees of that,</p> <p>9 there was, indeed, a leak of that</p> <p>10 investigation to a -- the media which was</p> <p>11 known as Rickey Stokes or The Houston, which I</p> <p>12 think is the name of his paper, but it goes</p> <p>13 through -- Rickey Stokes is the -- I think the</p> <p>14 principal in that business.</p> <p>15 Q. Okay. So what was supposed to be the scope of</p> <p>16 that investigation?</p> <p>17 A. The -- who released the information as far as</p> <p>18 the investigation on Mary Turner was the scope</p> <p>19 because the judge -- the judge had already</p> <p>20 directed the employees not to --</p> <p>21 Q. So you were trying to --</p> <p>22 MS. NELSON: Well, you're cutting him</p> <p>23 off. Not to --</p>

19 (Pages 73 to 76)

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FREEDOM COURT REPORTING

Page 77	Page 79
<p>1 MR. JAFFREE: I'm sorry.</p> <p>2 MS. NELSON: Let him finish what her</p> <p>3 directives were.</p> <p>4 A. Not to release information, not to talk about</p> <p>5 the investigation of Mary Turner. And after</p> <p>6 that directive was given by the judge, someone</p> <p>7 evidently did, which was on Rickey Stokes' web</p> <p>8 site.</p> <p>9 Q. So the mischief thought to be pursued in that</p> <p>10 that investigation was, who released the</p> <p>11 information?</p> <p>12 MS. NELSON: Object to your form, again,</p> <p>13 as -- with your mischief. I don't</p> <p>14 know what you mean by "mischief."</p> <p>15 MR. JAFFREE: Well, I like that word.</p> <p>16 MS. NELSON: Well, you must because you</p> <p>17 used it many times yesterday. But, I</p> <p>18 mean, if you could say like --</p> <p>19 MR. JAFFREE: I used it twice.</p> <p>20 MS. NELSON: -- what was the --</p> <p>21 MR. JAFFREE: What's wrong with --</p> <p>22 MS. NELSON: -- purpose of the</p> <p>23 investigation. I mean, mischief</p>	<p>1 A. Of this investigation? Yes, sir.</p> <p>2 Q. That was your charge?</p> <p>3 A. Yes, sir.</p> <p>4 Q. What, if any, criminal statutes may have been</p> <p>5 implicated by the release of this information?</p> <p>6 A. I don't know of any that would have been</p> <p>7 criminal.</p> <p>8 Q. This wasn't criminal at all?</p> <p>9 MS. NELSON: Object to the form. He</p> <p>10 didn't say that.</p> <p>11 MR. JAFFREE: Well, he sort of said</p> <p>12 something like that. That's what I</p> <p>13 heard.</p> <p>14 MS. NELSON: Well, I'll ask that his</p> <p>15 testimony stand instead of your</p> <p>16 paraphrasing what he said. He said he</p> <p>17 didn't know of any.</p> <p>18 Q. I'll live with your response. I have a</p> <p>19 feeling if it was up to opposing counsel, I</p> <p>20 wouldn't get a chance to ask you anything.</p> <p>21 A. I enjoy talking to you.</p> <p>22 Q. Thank you.</p> <p>23 So did you talk to people to find out who</p>
Page 78	Page 80
<p>1 connotes some --</p> <p>2 MR. JAFFREE: Well, let me ask this</p> <p>3 witness --</p> <p>4 MS. NELSON: I'll ask that you use another</p> <p>5 word besides mischief.</p> <p>6 MR. JAFFREE: I will if the witness</p> <p>7 doesn't understand what I mean by the</p> <p>8 word.</p> <p>9 A. Specifically, what are you talking about as</p> <p>10 far as mischief is concerned?</p> <p>11 Q. Well, I'll --</p> <p>12 MS. NELSON: Reason, purpose, why did you</p> <p>13 do this, you know. Let's just talk on</p> <p>14 plain words.</p> <p>15 Q. The purpose of this --</p> <p>16 MR. JAFFREE: Well, it's plain English to</p> <p>17 me.</p> <p>18 Q. But the purpose of this investigation was to</p> <p>19 find out who released information; is that</p> <p>20 correct?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And that was supposed to be the scope of the</p> <p>23 investigation?</p>	<p>1 exposed the very information that the judge</p> <p>2 warned them not to disclose?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Prior to talking to people, did you talk to</p> <p>5 the judge?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Was that discussion recorded?</p> <p>8 A. No, sir.</p> <p>9 Q. Why did you care who released information to</p> <p>10 the media?</p> <p>11 MS. NELSON: Object to the form. I don't</p> <p>12 know that he ever testified that he</p> <p>13 did care.</p> <p>14 Q. Well, did you care?</p> <p>15 MS. NELSON: He was doing his job.</p> <p>16 MR. JAFFREE: Well, he didn't indicate</p> <p>17 that he didn't care.</p> <p>18 Q. I mean, did you care?</p> <p>19 MS. NELSON: Care in what --</p> <p>20 A. I don't -- I don't have any -- I didn't have</p> <p>21 any personal feelings. And if that's what you</p> <p>22 mean by "care," I didn't have any personal</p> <p>23 feelings on who did it. It was a directive</p>

20 (Pages 77 to 80)

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FREEDOM COURT REPORTING

Page 81	Page 83
<p>1 that wasn't followed that I was told to</p> <p>2 investigate, and that was it.</p> <p>3 Q. Well, how did y'all reach the conclusion that</p> <p>4 it was a directive that was not followed; was</p> <p>5 this directive given to Mary Turner?</p> <p>6 A. She was wasn't present during that time --</p> <p>7 Q. In that case --</p> <p>8 A. -- to my knowledge.</p> <p>9 Q. In that case, Mary Turner could have released</p> <p>10 the information to Rickey Stokes, correct?</p> <p>11 MS. NELSON: Object to --</p> <p>12 A. You're saying could have?</p> <p>13 MS. NELSON: This calls for speculation.</p> <p>14 Q. Well, I mean, could she have?</p> <p>15 MS. NELSON: Well, I'd ask him to review</p> <p>16 Rickey Stokes -- I'd ask him to review</p> <p>17 what was on the web site. Based on</p> <p>18 what was on the web site, I don't know</p> <p>19 how Mary Turner could have knowledge</p> <p>20 of what was in the web site -- in</p> <p>21 Rickey Stokes' web site.</p> <p>22 Q. Well, what was in there that Mary Turner could</p> <p>23 not have had knowledge of, since counsel has</p>	<p>1 don't think she would have known that there</p> <p>2 was an investigation from me about this</p> <p>3 particular additional -- this investigation</p> <p>4 came after she was already on administrative</p> <p>5 leave for something else. So she -- she</p> <p>6 wouldn't have known that there was a separate</p> <p>7 investigation dealing with the release of</p> <p>8 information because she wasn't in the office,</p> <p>9 as you stated earlier. So she wasn't at the</p> <p>10 office whenever I --</p> <p>11 MR. JAFFREE: I have to hunt for mine. Do</p> <p>12 you have an objection to me making</p> <p>13 this part of the record, to make a</p> <p>14 copy and make this as an exhibit?</p> <p>15 MS. NELSON: You're talking about the</p> <p>16 entire investigation.</p> <p>17 MR. JAFFREE: No. Just that one --</p> <p>18 MS. NELSON: No. If you're going to make</p> <p>19 the -- I'd ask that we make the</p> <p>20 entire -- or at least the report.</p> <p>21 MR. JAFFREE: I don't want to have this</p> <p>22 deposition costing an arm and a leg</p> <p>23 and your nose and your head as well.</p>
Page 82	Page 84
<p>1 quickened your response? Help us out here.</p> <p>2 A. Okay. Just a second.</p> <p>3 (Brief pause)</p> <p>4 MS. NELSON: See if you can answer.</p> <p>5 That's my objection but I don't --</p> <p>6 He's calling for -- what's the last</p> <p>7 question on the table? I forgot.</p> <p>8 Q. What is it that was on that web site that Mary</p> <p>9 Turner could not have had knowledge of?</p> <p>10 MS. NELSON: And that was my objection.</p> <p>11 A. Speculating --</p> <p>12 MS. NELSON: Yeah.</p> <p>13 A. This is all speculative. Mary could have had</p> <p>14 knowledge of this information, so could</p> <p>15 have -- so could, you know, the people that</p> <p>16 was in the office during the investigation.</p> <p>17 It depends on if someone leaked information to</p> <p>18 Mary Turner. So she could have done this if</p> <p>19 someone leaked information from inside the</p> <p>20 office, and she could have told Rickey Stokes.</p> <p>21 Q. Well, what information could -- she would not</p> <p>22 have had independent knowledge of?</p> <p>23 A. She wouldn't have known that there was a -- I</p>	<p>1 So if --</p> <p>2 MS. NELSON: Well, no, I --</p> <p>3 MR. JAFFREE: -- I could just get that one</p> <p>4 page.</p> <p>5 MS. NELSON: I am going to object to the</p> <p>6 one page if we can't do it all.</p> <p>7 MR. JAFFREE: I'll have to hunt for mine.</p> <p>8 Can I ask you what page number is</p> <p>9 that?</p> <p>10 MS. NELSON: The Bates --</p> <p>11 MR. JAFFREE: Since you're looking at it.</p> <p>12 MS. NELSON: I don't have the</p> <p>13 Bates-stamped pages. I'm sorry.</p> <p>14 MR. JAFFREE: Well, do you have a</p> <p>15 Bates-stamped page in front of it.</p> <p>16 MS. NELSON: No, I don't.</p> <p>17 MR. JAFFREE: Well, you don't have any of</p> <p>18 them.</p> <p>19 MS. NELSON: The copy I've brought with me</p> <p>20 is not Bates-stamped.</p> <p>21 MR. JAFFREE: Well, since you looked at it</p> <p>22 can I --</p> <p>23 THE WITNESS: That's it.</p>

21 (Pages 81 to 84)

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FREEDOM COURT REPORTING

Page 85	Page 87
<p>1 MR. JAFFREE: This is it, right here.</p> <p>2 Since you won't assist me, I will</p> <p>3 assist myself and mark this as</p> <p>4 Plaintiffs' Exhibit 15 and show you.</p> <p>5 (Plaintiffs' Exhibit 15 was marked</p> <p>6 for identification.)</p> <p>7 Q. Are you suggesting that Ms. Turner would not</p> <p>8 have known if there was some allegation that a</p> <p>9 ticket was dismissed and exchanged for some</p> <p>10 work done on a residence?</p> <p>11 A. No, sir, I'm not arguing that point.</p> <p>12 Q. Well, what is it you think that Ms. Turner</p> <p>13 would not have known independently?</p> <p>14 (Brief pause)</p> <p>15 A. There's not a date on -- I was referring to</p> <p>16 the exhibit you're looking at. I was looking</p> <p>17 for a date that it was actually published on</p> <p>18 the web site to get a point of reference.</p> <p>19 (Brief pause)</p> <p>20 A. I don't -- I don't know that she could have</p> <p>21 knowledge of what was printed on the web site</p> <p>22 in question or not.</p> <p>23 Q. Just so we're clear, is the publication of</p>	<p>1 A. No, I don't know whether she could have or</p> <p>2 not.</p> <p>3 Q. Well, what about Michelle Sellers; do you</p> <p>4 think she knew about the investigation?</p> <p>5 MS. NELSON: Again, I object.</p> <p>6 Q. Do you know whether she knew about the</p> <p>7 investigation?</p> <p>8 MS. NELSON: I think everybody in the</p> <p>9 magistrates' office knew about the</p> <p>10 investigation. They had been</p> <p>11 instructed not --</p> <p>12 A. Michelle Sellers did know.</p> <p>13 MS. NELSON: -- not to talk about and not</p> <p>14 to talk to Mary Turner.</p> <p>15 Q. Did you interview Michelle?</p> <p>16 A. Yes.</p> <p>17 Q. Under oath. Under oath?</p> <p>18 A. Sir?</p> <p>19 Q. Under oath?</p> <p>20 A. I didn't put anybody under any kind of oath.</p> <p>21 Q. But did you give Michelle the Garrity notice?</p> <p>22 A. Just a second and I'll tell you.</p> <p>23 (Brief pause)</p>
Page 86	Page 88
<p>1 this information on the web site that</p> <p>2 triggered this investigation, the</p> <p>3 investigation we was talking about, that</p> <p>4 caused you to go out and interview other</p> <p>5 members of the judicial department?</p> <p>6 A. That's correct.</p> <p>7 Q. Did you interview any members of the police</p> <p>8 force?</p> <p>9 A. As a part of that release of information?</p> <p>10 Q. Yeah.</p> <p>11 A. I don't think that I did.</p> <p>12 Q. Did you interview under oath Judge Gordon?</p> <p>13 A. No.</p> <p>14 Q. Did you read Judge Gordon the Garrity rights?</p> <p>15 A. No.</p> <p>16 Q. Could Judge Gordon have released this</p> <p>17 information?</p> <p>18 MS. NELSON: Object to the form.</p> <p>19 A. Speculating, I would -- I can't give --</p> <p>20 MS. NELSON: I'd ask you not to speculate.</p> <p>21 A. -- you an accurate answer. I can't give you</p> <p>22 an accurate answer. It would be speculating.</p> <p>23 Q. You don't know whether she could have or not?</p>	<p>1 MR. JAFFREE: Off the Record.</p> <p>2 (Off-the-Record discussion)</p> <p>3 A. I don't believe interviewed Michelle Sellers</p> <p>4 as a part of this investigation. Michelle</p> <p>5 Sellers, her office was located in -- in</p> <p>6 this -- excuse me -- in the municipal</p> <p>7 courtroom. At the time, it wasn't located</p> <p>8 over at the magistrates' office. She was in a</p> <p>9 different capacity. I -- she was the judge's</p> <p>10 assistant -- administrative assistant, so she</p> <p>11 wasn't in with the magistrates over there</p> <p>12 during -- during this time.</p> <p>13 Q. How did you know exactly what the judge had</p> <p>14 instructed the staff not to do; did she give</p> <p>15 you something in writing?</p> <p>16 A. I'm -- I'm not clear what you're asking.</p> <p>17 MS. NELSON: What time frame are you</p> <p>18 talking about?</p> <p>19 Q. Well, during the time that you was initiating</p> <p>20 your investigation of who leaked information?</p> <p>21 When I use the term "who leaked information,"</p> <p>22 do you understand that?</p> <p>23 A. I understand that.</p>

22 (Pages 85 to 88)

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FREEDOM COURT REPORTING

Page 89	Page 91
<p>1 Q. Did the judge give you any kind of statement 2 as to what she had instructed her staff, or 3 she just verbally told you? 4 A. I was there when the judge instructed the 5 staff not to release any information. Is that 6 what you're talking about? 7 Q. Were you there? 8 MS. NELSON: That's what he's talking 9 about, yes. 10 Q. You were present when she -- 11 A. Yes. 12 Q. -- instructed her staff? 13 A. Uh-huh (positive response). 14 Q. Why were you present over there? 15 A. Because I was the one doing the 16 investigation. 17 Q. Doing which investigation? 18 A. The one that you're questioning me about. 19 Q. Well, no. When she instructed her staff, that 20 was before this investigation. 21 MS. NELSON: Well, he's talking about the 22 whole Mary Turner investigation, I 23 believe.</p>	<p>1 MS. NELSON: Well, I think you're 2 confusing -- completely confusing the 3 issue. 4 MR. JAFFREE: Well, that's not -- 5 MS. NELSON: And you're confused yourself 6 because you're asking, what 7 investigation was he involved in. 8 MR. JAFFREE: Well -- 9 MS. NELSON: Let him testify. 10 MR. JAFFREE: Well, your confused if you 11 think I'm confused because I'm not 12 confused. 13 MS. NELSON: Well, I think -- 14 MR. JAFFREE: And, therefore, you must be 15 confused. 16 MS. NELSON: Well, I think the witness is 17 confused. 18 Q. Let's take this a linear way. There was an 19 investigation of ticket fixing allegedly. 20 MS. NELSON: Involving -- say involving 21 who. Let's just be clear what we're 22 talk about. 23 Q. Involving Ms. Turner.</p>
Page 90	Page 92
<p>1 Q. Well, which -- were you involved in the other 2 Mary Turner investigation? 3 A. What do you mean, the other? I need you to be 4 specific. There's been so many different 5 things. 6 Q. There was investigation of a ticket. 7 A. Yes. 8 Q. And then there was something that appeared on 9 Rickey Stokes. 10 A. Yes. 11 Q. And then there was an investigation of who 12 leaked information to Rickey Stokes. Now, 13 after the investigation of the ticket was 14 initiated, the judge addressed the staff. 15 That was before this investigation of who 16 leaked information because information hadn't 17 been leaked at that time. 18 Are you following me? 19 MS. NELSON: You know, maybe if you'd just 20 ask him what occurred and what 21 involvement he had, he'll tell you. 22 MR. JAFFREE: Well, maybe I can just ask 23 him the way that I'm asking him.</p>	<p>1 A. Okay. 2 Q. An allegation of ticket fixing involving 3 Ms. Turner. 4 MS. NELSON: Is that a question? 5 Q. See if you can follow this track, and stop me 6 when I'm saying something incorrect. 7 That investigation led to the suspension 8 of Ms. Turner. Around the same time that 9 Ms. Turner was suspended, the judge made a 10 statement to the staff: Do not disclose this 11 information. Do not disclose. Ms. Turner's 12 gone temporarily. There is an investigation. 13 Do not talk about this. That came next. 14 Suddenly -- 15 MS. NELSON: Just for the Record, that's 16 not all that was said during that 17 meeting. 18 MR. JAFFREE: Well, for this purpose of 19 this dialogue, it's all I want to 20 point out that was said. 21 MS. NELSON: Okay. It's not accurate but 22 okay. Go ahead. 23 And that's the meeting he's</p>

23 (Pages 89 to 92)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 93</p> <p>1 trying to tell you, he was there.</p> <p>2 Q. You was at that meeting?</p> <p>3 A. You're putting two things together. If I</p> <p>4 understand right, when Ms. Turner was put on</p> <p>5 some type of administrative leave -- and I</p> <p>6 think the judge had a meeting with them and</p> <p>7 told them that she was on administrative</p> <p>8 leave. That is totally different from this</p> <p>9 meeting that we're talking about, the</p> <p>10 investigation due to the release of</p> <p>11 information.</p> <p>12 Q. I'm talking about the earlier meeting.</p> <p>13 A. I wasn't there.</p> <p>14 Q. So you wasn't at the earlier meeting?</p> <p>15 A. I had nothing to do with --</p> <p>16 MR. JAFFREE: I think counsel --</p> <p>17 A. -- when she told her -- when she told her</p> <p>18 staff that she was on --</p> <p>19 Q. Okay. All right.</p> <p>20 A. So you've merged both things together, and</p> <p>21 they're not. I believe they're two separate</p> <p>22 --</p> <p>23 Q. I was hoping not to, but now I think we are on</p>	<p style="text-align: right;">Page 95</p> <p>1 she can pick it up.</p> <p>2 A. I'm sorry. I'm sorry. Yes, sir.</p> <p>3 Q. Now, in order for this to get on a web site,</p> <p>4 somebody must have told somebody about</p> <p>5 information concerning the investigation.</p> <p>6 Are you following me?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Is that correct?</p> <p>9 A. I'm following you.</p> <p>10 Q. Somebody must have told somebody. When you</p> <p>11 interviewed people, did you ask them if they</p> <p>12 talked to anybody about what the judge had</p> <p>13 told them not to talk about?</p> <p>14 A. Yes.</p> <p>15 Q. Because if they talked to somebody about what</p> <p>16 the judge had told them not to talk about,</p> <p>17 then they did something in violation of the</p> <p>18 judge's directive; is that correct?</p> <p>19 A. The judge directed them not to talk about the</p> <p>20 case.</p> <p>21 Q. Did you --</p> <p>22 MS. NELSON: Are you finished?</p> <p>23 A. That's correct.</p>
<p style="text-align: right;">Page 94</p> <p>1 the right track. Now --</p> <p>2 A. To my knowledge, I wasn't there.</p> <p>3 Q. Okay. This appeared on the web site.</p> <p>4 MS. NELSON: What? Let's talk about what</p> <p>5 we're talking about.</p> <p>6 Q. The information that's on Plaintiffs' Exhibit</p> <p>7 15 appeared on the web site, correct? This</p> <p>8 information appeared on the web site?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Did you personally see it on the web site?</p> <p>11 A. I can't say that I did. I don't remember.</p> <p>12 Q. You may have been subsequently informed that</p> <p>13 it was on the web site?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And the new investigation was to find out who</p> <p>16 leaked it?</p> <p>17 A. Yes.</p> <p>18 Q. That was your charge?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And you told the people that you was</p> <p>21 investigating it, and this was your charge?</p> <p>22 A. Uh-huh (positive response).</p> <p>23 MS. NELSON: You need to say yes or no so</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. Did you discover, in talking to members of the</p> <p>2 judicial department staff that some members</p> <p>3 had, in fact, talked to people?</p> <p>4 A. Yes.</p> <p>5 Q. Did you interview these people that they said</p> <p>6 they had talked to, to see if they had, in</p> <p>7 turn, talked to any people?</p> <p>8 A. Did I interview the people that were alleged</p> <p>9 to have received the information?</p> <p>10 Q. Yeah.</p> <p>11 A. Then, no.</p> <p>12 Q. Well, if you was trying to track down who gave</p> <p>13 information to Rickey Stokes and anybody who</p> <p>14 had the information, either firsthand,</p> <p>15 secondhand, or thirdhand, could have given</p> <p>16 that information to Rickey Stokes, did you not</p> <p>17 feel the need to talk to the people that they</p> <p>18 had talked to?</p> <p>19 A. No.</p> <p>20 Q. Didn't find any need?</p> <p>21 A. No.</p> <p>22 Q. Why not?</p> <p>23 A. If an employee told me that they spoke to</p>

24 (Pages 93 to 96)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 97</p> <p>1 someone else about the investigation, that</p> <p>2 individual is not the focus of the directive</p> <p>3 that the judge gave or the investigation.</p> <p>4 That's someone that's on the outside that was</p> <p>5 told by a magistrate something -- something</p> <p>6 that was going on.</p> <p>7 Q. So you didn't care that Rickey Stokes had the</p> <p>8 information; you were only concerned with</p> <p>9 whether or not somebody in the magistrates'</p> <p>10 office gave that information?</p> <p>11 MS. NELSON: Object to whether he cared or</p> <p>12 not --</p> <p>13 Q. Is that correct?</p> <p>14 MS. NELSON: -- as to his -- your</p> <p>15 interpretation of your question about</p> <p>16 whether or not he cared. It's an</p> <p>17 improper question.</p> <p>18 Q. Is that correct?</p> <p>19 A. I don't have any personal feelings about that</p> <p>20 -- the release of that information. My charge</p> <p>21 was to investigate who may have leaked the</p> <p>22 information as it came out of the magistrates'</p> <p>23 office.</p>	<p style="text-align: right;">Page 99</p> <p>1 Q. So everyone who spoke to someone was in</p> <p>2 violation of the judge's directive?</p> <p>3 A. The judge's directive was clear. And --</p> <p>4 Q. Well, did you realize at the time you was</p> <p>5 talking to the members of the judge's staff,</p> <p>6 or if there's any ambiguity, the members of</p> <p>7 the judicial department who admitted that they</p> <p>8 had spoken to someone, that they had violated</p> <p>9 the judge's directive?</p> <p>10 A. Yes, I knew at the time.</p> <p>11 Q. Did you recommend any kind of disciplinary</p> <p>12 action because these people had violated the</p> <p>13 judge's directive?</p> <p>14 A. I don't recommend discipline in this -- I did</p> <p>15 not recommend discipline in this case.</p> <p>16 Q. Did you point out any type of the personnel</p> <p>17 policy rules that may have been violated with</p> <p>18 respect to the people who had communicated</p> <p>19 information to someone about an investigation</p> <p>20 was ongoing?</p> <p>21 A. That was a mouthful. Could you say that</p> <p>22 again, please?</p> <p>23 Q. Did you recommend in your report what</p>
<p style="text-align: right;">Page 98</p> <p>1 Q. So your concern was not whoever gave the</p> <p>2 information to Rickey Stokes; your concern was</p> <p>3 whether or not somebody from the magistrates'</p> <p>4 office gave the information to Rickey Stokes?</p> <p>5 A. My investigation was to who leaked the</p> <p>6 information, and it was dealing with the</p> <p>7 magistrates that were under -- that had</p> <p>8 asked -- been asked questions by internal</p> <p>9 affairs in regards to the release of that --</p> <p>10 that information. So the information that was</p> <p>11 on the web site was being I guess -- I was I</p> <p>12 directed to investigate the persons out of the</p> <p>13 magistrates' office who could have possibly</p> <p>14 leaked that information to the web site.</p> <p>15 Q. Well, in your opinion, anyone from the</p> <p>16 magistrates' office that talked to anyone</p> <p>17 about the investigation, would they be in</p> <p>18 violation of the judge's direction not to talk</p> <p>19 to anyone?</p> <p>20 A. If the judge -- the judge directed them not to</p> <p>21 speak to anybody about that investigation,</p> <p>22 then that's correct. It -- that was her</p> <p>23 directive?</p>	<p style="text-align: right;">Page 100</p> <p>1 personnel rules may have been violated by the</p> <p>2 people who provided information to third</p> <p>3 parties in violation of the judge's directive?</p> <p>4 (Brief pause)</p> <p>5 A. I told the judge that employees had spoke</p> <p>6 about this case to spouses, things of that</p> <p>7 nature; I did tell her that had occurred.</p> <p>8 Q. Did you tell her that an employee had spoken</p> <p>9 about this case to a friend?</p> <p>10 A. I can't say that I recall going specifically</p> <p>11 down line with each -- each individual that I</p> <p>12 interviewed and told who they released the</p> <p>13 information to. I did tell her that they had,</p> <p>14 in fact, spoken to other people such as</p> <p>15 spouses and things of that nature.</p> <p>16 Q. Did you recommend or did you point out some</p> <p>17 kind of major offense that Mary Brackin may</p> <p>18 have committed?</p> <p>19 A. I did quote the personnel rules and</p> <p>20 regulations of insubordination as it relates</p> <p>21 to Mary Beth Brackin to the judge in my</p> <p>22 report.</p> <p>23 Q. Why did you report personnel rules and</p>

25 (Pages 97 to 100)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 101</p> <p>1 regulations violations with respect to</p> <p>2 Ms. Brackin and not report the personnel rules</p> <p>3 and regulations violation with respect to any</p> <p>4 of the other employees?</p> <p>5 A. Because within this investigation, Mary Beth</p> <p>6 Brackin was the only employee that spoke to</p> <p>7 the person that they were directed not to have</p> <p>8 contact with. The judge directed them not to</p> <p>9 have contact, not to speak with Mary Turner,</p> <p>10 involving this investigation. Mary</p> <p>11 Brackin -- Mary Beth Brackin did talk to</p> <p>12 Ms. Turner which was the subject of the</p> <p>13 investigation. And none of the other</p> <p>14 employees talked to Ms. Turner that was the</p> <p>15 subject of the investigation.</p> <p>16 Q. Well, I thought you just said earlier that the</p> <p>17 subject of this investigation was who leaked</p> <p>18 information to Rickey Stokes.</p> <p>19 MS. NELSON: Object to the form. And</p> <p>20 you're distorting his testimony.</p> <p>21 MR. JAFFREE: I'm not distorting anything.</p> <p>22 Q. The subject of this investigation was who</p> <p>23 leaked information to Rickey Stokes. Do we</p>	<p style="text-align: right;">Page 103</p> <p>1 contact with Ms. Brackin, not to go in her</p> <p>2 office.</p> <p>3 MS. NELSON: Ms. Turner.</p> <p>4 A. Excuse me. With Ms. Turner. Not to go in her</p> <p>5 office, not to have any contact -- verbal</p> <p>6 contact, any contact with her as a result of</p> <p>7 the ongoing investigation. And then there's a</p> <p>8 release of information here that went to</p> <p>9 Rickey Stokes as far as the investigation was</p> <p>10 concerned.</p> <p>11 Q. Did the judge --</p> <p>12 MS. NELSON: The investigation of what?</p> <p>13 Let's get that straight because we --</p> <p>14 A. The investigation of the release of</p> <p>15 information is one thing, and then the</p> <p>16 directive that the judge gave for no one to</p> <p>17 talk, have contact with Mary Beth Turner is --</p> <p>18 Q. Did she --</p> <p>19 MS. NELSON: Mary Turner. I know there's</p> <p>20 a lot of Marys.</p> <p>21 MR. JAFFREE: Well, if I was somebody, I</p> <p>22 would say, leave the record the way it</p> <p>23 is, but you can correct the Record.</p>
<p style="text-align: right;">Page 102</p> <p>1 need to look at the exhibit?</p> <p>2 MS. NELSON: You're terribly confusing the</p> <p>3 facts of this case.</p> <p>4 MR. JAFFREE: I'm not confusing anything.</p> <p>5 I'm not confusing anything.</p> <p>6 MS. NELSON: Well, you are confused.</p> <p>7 MR. JAFFREE: I'm not. Then you're</p> <p>8 confused. Okay?</p> <p>9 Q. I suspect if you look at your testimony,</p> <p>10 you'll say that the subject of this</p> <p>11 investigation that you're on now was who</p> <p>12 leaked information to Rickey Stokes, not</p> <p>13 whether or not somebody had talked to</p> <p>14 Ms. Turner, but who leaked information to</p> <p>15 Rickey Stokes.</p> <p>16 A. There are two things going on here. The judge</p> <p>17 direct -- the judge's directive to their</p> <p>18 employees not to have contact with Ms. Turner,</p> <p>19 that was violated by Ms. Brackin. The web</p> <p>20 site, your Exhibit 15, that has to do with</p> <p>21 some of the contents of -- or with the</p> <p>22 investigation itself. So you have the judge</p> <p>23 directing all the employees not to have any</p>	<p style="text-align: right;">Page 104</p> <p>1 A. Yes. Of the investigation of Mary Turner.</p> <p>2 But I'm confused now. For clarification --</p> <p>3 MS. NELSON: Well, it might help if he</p> <p>4 would just ask you what occurred</p> <p>5 instead of --</p> <p>6 MR. JAFFREE: I don't want to just --</p> <p>7 MS. NELSON: You don't want to get to the</p> <p>8 truth. You don't want to get to the</p> <p>9 facts of the case. You want to just</p> <p>10 jump around and confuse and --</p> <p>11 MR. JAFFREE: I think I know the facts of</p> <p>12 case as well as you do or maybe not.</p> <p>13 MS. NELSON: I don't think so.</p> <p>14 MR. JAFFREE: I mean, you may have some</p> <p>15 documents that I don't have.</p> <p>16 Q. Just a few more questions.</p> <p>17 A. Okay.</p> <p>18 Q. Do you know if the judge made these two</p> <p>19 demands at different times, don't discuss this</p> <p>20 investigation and don't contact Mary Turner?</p> <p>21 Do you know if they were made at two different</p> <p>22 times?</p> <p>23 (Brief pause)</p>

26 (Pages 101 to 104)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 105</p> <p>1 MS. NELSON: If you know.</p> <p>2 Q. If you know.</p> <p>3 A. Okay. It was on March 15th that the judge</p> <p>4 advised -- excuse me -- March 10th, 2005, that</p> <p>5 the judge advised the employees that</p> <p>6 Ms. Turner was on administrative leave and</p> <p>7 that there was an internal affairs</p> <p>8 investigation being conducted. This is where</p> <p>9 she also directed employees to refrain from</p> <p>10 any contact with Ms. Turner while the internal</p> <p>11 affairs investigation was underway.</p> <p>12 Q. So are you saying these happened on different</p> <p>13 days or the same day?</p> <p>14 A. This was on March the 10th that the judge gave</p> <p>15 those directions.</p> <p>16 Q. Did she give both directions on the same day?</p> <p>17 A. What I just read was under the same day.</p> <p>18 Q. Do you know if she sort of gave those</p> <p>19 directions at the same time?</p> <p>20 A. I'm not sure.</p> <p>21 Q. Did she indicate to you that she considered</p> <p>22 one direction more important than the other,</p> <p>23 if you recall?</p>	<p style="text-align: right;">Page 107</p> <p>1 A. To my knowledge, the fire department and the</p> <p>2 judicial department.</p> <p>3 Q. Well, with respect to your investigation in</p> <p>4 2001, did you list major offenses that you</p> <p>5 found?</p> <p>6 (Brief pause)</p> <p>7 A. No, I didn't.</p> <p>8 Q. Did you not find any major offenses during</p> <p>9 your 2001 investigation?</p> <p>10 A. With regards to this investigation, the judge,</p> <p>11 basically, told me during the allegation what</p> <p>12 the offense was and -- which I explained to</p> <p>13 you earlier, which was Ms. Brackin giving what</p> <p>14 she termed to be legal advice to Ms. Ralpeje.</p> <p>15 Q. Well, what major offense was that?</p> <p>16 A. And so that was -- that was just -- that was</p> <p>17 the charge to -- to find out. So there was</p> <p>18 already -- I was told what the allegations</p> <p>19 were. So after I just found the facts, I</p> <p>20 didn't have to rewrite what her --</p> <p>21 Q. Oh, she'd given you a personnel rule violation</p> <p>22 in that case? And we're talking about the</p> <p>23 2001 case, right? She had already given you a</p>
<p style="text-align: right;">Page 106</p> <p>1 A. No, she didn't.</p> <p>2 Q. Upon what authority, since you was just there</p> <p>3 to gather facts, did you recommend a major</p> <p>4 offense violation?</p> <p>5 A. That wasn't a recommendation. That was stated</p> <p>6 in the personnel rules for the City of</p> <p>7 Dothan. I didn't -- I didn't recommend that.</p> <p>8 That's what it fall -- fell up under. That</p> <p>9 violation is what it fell up under.</p> <p>10 Q. Was it part of your charge to find out what</p> <p>11 any violation you found fell under; is that</p> <p>12 part of your charge?</p> <p>13 A. Yes. Not only this investigation, but</p> <p>14 others. It's a -- if there's a violation of a</p> <p>15 policy or whatever, you write what the</p> <p>16 violation is after you find the -- after you</p> <p>17 complete your investigation.</p> <p>18 Q. But you've only -- with the exception of the</p> <p>19 one involving the fire department, you've</p> <p>20 really only done these sort of administrative</p> <p>21 things with respect to the judicial</p> <p>22 department, right?</p> <p>23 MS. NELSON: Object to the form.</p>	<p style="text-align: right;">Page 108</p> <p>1 personnel violation?</p> <p>2 MS. NELSON: Object to form. That's not</p> <p>3 what he testified to.</p> <p>4 MR. JAFFREE: Well, I'm trying to find</p> <p>5 out.</p> <p>6 Q. What are you testifying to? What did she give</p> <p>7 you?</p> <p>8 A. As I've just stated, she said that I needed to</p> <p>9 look into allegations that Mary Beth Brackin</p> <p>10 was giving legal advice to Ms. Ralpeje, a</p> <p>11 defendant in a criminal case. So I just</p> <p>12 investigated the allegations and gave her the</p> <p>13 facts of the allegations.</p> <p>14 Q. But, here, you felt you needed to do more?</p> <p>15 MS. NELSON: "Here," you're referring to</p> <p>16 the --</p> <p>17 A. This is a release of --</p> <p>18 MS. NELSON: Insubordination by Mary Beth</p> <p>19 Brackin.</p> <p>20 Q. I'm a little -- excuse me. If you was</p> <p>21 investigating the release of information, what</p> <p>22 does Mary Beth talking to Mary Turner have to</p> <p>23 do with the release of information? Because</p>

27 (Pages 105 to 108)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 109</p> <p>1 that was your investigation. What</p> <p>2 does -- you're looking at the release of</p> <p>3 information, and then you talk about some</p> <p>4 contact. What does that have to do with</p> <p>5 release of information?</p> <p>6 MS. NELSON: Again, object to the form.</p> <p>7 He stated that the release of</p> <p>8 information started the investigation.</p> <p>9 MR. JAFFREE: Can I ask him?</p> <p>10 MS. NELSON: Yes, you can.</p> <p>11 MR. JAFFREE: Now, I know how bad you want</p> <p>12 to infiltrate this Record with your</p> <p>13 comments, but if I could just hear</p> <p>14 from him.</p> <p>15 MS. NELSON: I'm just trying to keep a</p> <p>16 clean record, and you're inferences</p> <p>17 and testimony and confusion --</p> <p>18 MR. JAFFREE: Well, I'm asking him.</p> <p>19 MS. NELSON: -- have done nothing to allow</p> <p>20 the Record to be clear.</p> <p>21 Q. If your charge was who leaked information,</p> <p>22 does Mary Beth Brackin speaking to Mary Turner</p> <p>23 have anything to do with who leaked</p>	<p style="text-align: right;">Page 111</p> <p>1 authority can the internal affairs department</p> <p>2 instruct a citizen not to contact another</p> <p>3 citizen? What authority?</p> <p>4 MS. NELSON: Object to the form. It</p> <p>5 was --</p> <p>6 Q. You said you did it, so I'm trying to find out</p> <p>7 what authority.</p> <p>8 MS. NELSON: Object to form. It was not</p> <p>9 citizen to citizen.</p> <p>10 MR. JAFFREE: Excuse me.</p> <p>11 Q. Is Mary Brackin a citizen?</p> <p>12 A. Yes. And she's also employed by the City of</p> <p>13 Dothan which would make her a governmental</p> <p>14 employee up under the City of Dothan's</p> <p>15 umbrella. And under that is why they were</p> <p>16 directed to not speak to one another during an</p> <p>17 ongoing investigation.</p> <p>18 Q. Well, I'm trying to find out by what authority</p> <p>19 do you have to tell one employee to make no</p> <p>20 contact with another employee?</p> <p>21 A. And I don't quite understand your word or your</p> <p>22 definition of what authority, but my police --</p> <p>23 I was working under the authority of the</p>
<p style="text-align: right;">Page 110</p> <p>1 information?</p> <p>2 A. I would consider that leaking information.</p> <p>3 Q. Oh, you would?</p> <p>4 A. Mary Beth Brackin was interviewed like</p> <p>5 everybody else was. She released information,</p> <p>6 talking to Mary Turner about the investigation</p> <p>7 when she was directed not to by the judge.</p> <p>8 Q. Well, what about all these other people who</p> <p>9 released information? Well let's not -- let's</p> <p>10 not worry about them.</p> <p>11 Have you -- and I guess you have answered</p> <p>12 this, but since the departure of Mary Brackin,</p> <p>13 have you been called upon to investigate any</p> <p>14 other employee of the judicial department?</p> <p>15 A. Not to my knowledge.</p> <p>16 Q. Now, can you tell me pursuant to what</p> <p>17 authority -- but, first, two questions then</p> <p>18 I'm through.</p> <p>19 Do you know who instructed the judge to</p> <p>20 tell her employees to have no contact with</p> <p>21 Mary Turner?</p> <p>22 A. I had a conversation with her about that.</p> <p>23 Q. Okay. Can you tell me pursuant to what</p>	<p style="text-align: right;">Page 112</p> <p>1 police chief at the time.</p> <p>2 Q. So other than the police chief, can you point</p> <p>3 to me anything that gives the police chief the</p> <p>4 authority to tell somebody from another</p> <p>5 department not to communicate or not to make</p> <p>6 contact with a person in that department?</p> <p>7 A. The judge is actually who told them that.</p> <p>8 Q. The judge told them that.</p> <p>9 A. I talked to the judge about having the</p> <p>10 employees not make contact with Ms. Turner in</p> <p>11 reference to this ongoing investigation that</p> <p>12 we had. The judge directed her people in her</p> <p>13 department --</p> <p>14 Q. I see.</p> <p>15 A. -- to do that.</p> <p>16 Q. Well, the judge tries to put it on you, but</p> <p>17 that's fine. All right.</p> <p>18 MS. NELSON: Well, I'm --</p> <p>19 Q. Did the chief instruct you to tell the judge</p> <p>20 to have her people make no contact with</p> <p>21 Ms. Turner?</p> <p>22 A. No.</p> <p>23 Q. You did this on your own initiative?</p>

28 (Pages 109 to 112)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 113</p> <p>1 A. Yes.</p> <p>2 Q. Well, since this on your own initiative,</p> <p>3 pursuant to what authority did you do this?</p> <p>4 A. It's an investigative practice. Kind of like</p> <p>5 invoking the rule in court, which you'd be</p> <p>6 familiar with, you do not want subjects of the</p> <p>7 investigation talking with witnesses as you're</p> <p>8 trying to conduct an investigation.</p> <p>9 Q. So is this discretionary just something that</p> <p>10 you prefer, or was this under the penalty of</p> <p>11 job loss?</p> <p>12 MS. NELSON: Object to the form. He's</p> <p>13 trying to explain.</p> <p>14 MR. JAFFREE: Well, I'm asking him.</p> <p>15 MS. NELSON: He didn't say anything about</p> <p>16 job loss. He's talking about</p> <p>17 investigative practices.</p> <p>18 Q. Well, I mean -- but the result is a job was</p> <p>19 lost because your directive was violated. I'm</p> <p>20 trying to get some idea, where do you get the</p> <p>21 power to do that?</p> <p>22 MS. NELSON: He said he didn't understand</p> <p>23 your question. He didn't know. He's</p>	<p style="text-align: right;">Page 115</p> <p>1 MS. NELSON: Gotcha. Okay.</p> <p>2 (Brief pause)</p> <p>3 MR. JAFFREE: Let the Record reflect that</p> <p>4 the witness is in thoughtful</p> <p>5 deliberation.</p> <p>6 A. I guess at the present time, the correct</p> <p>7 response would -- would be, I'm uncertain</p> <p>8 pending going back and reviewing some -- some</p> <p>9 other information.</p> <p>10 Q. All right. I accept that.</p> <p>11 Did you indicate to the judge how long</p> <p>12 this no-contact directive should stay in</p> <p>13 place?</p> <p>14 A. I just said during the investigation, while it</p> <p>15 was ongoing.</p> <p>16 Q. Did you advise the judge when the</p> <p>17 investigation had been completed?</p> <p>18 A. She did receive a report.</p> <p>19 Q. From whom?</p> <p>20 A. It would have come from the chief of police,</p> <p>21 I'm assuming.</p> <p>22 Which investigation are you referring to?</p> <p>23 Q. Well, we're talking about the investigation of</p>
<p style="text-align: right;">Page 114</p> <p>1 trying to explain to you why --</p> <p>2 MR. JAFFREE: Can I get an answer from</p> <p>3 him?</p> <p>4 MS. NELSON: Asked and answered.</p> <p>5 A. What's your question?</p> <p>6 Q. Where do you get the power to do that? You</p> <p>7 said, chief didn't tell you to do it.</p> <p>8 A. That's correct.</p> <p>9 Q. So we can't go back to the chief.</p> <p>10 A. That's correct.</p> <p>11 Q. And that's what your answer was first. So if</p> <p>12 the chief didn't tell you to do it, where did</p> <p>13 you get the power to suggest or to instruct</p> <p>14 the judge to have her people not contact Mary</p> <p>15 Turner?</p> <p>16 MS. NELSON: Object to the form. You can</p> <p>17 answer.</p> <p>18 THE WITNESS: Okay.</p> <p>19 (Brief pause)</p> <p>20 MS. NELSON: You can you answer if you</p> <p>21 know. But --</p> <p>22 THE WITNESS: I'm just thinking about</p> <p>23 something.</p>	<p style="text-align: right;">Page 116</p> <p>1 the ticket, the investigation that the judge</p> <p>2 had told them to make no contact, during that</p> <p>3 investigation.</p> <p>4 A. Oh, the release of information?</p> <p>5 Q. No, not the release of information</p> <p>6 investigation. We're talking about the ticket</p> <p>7 investigation.</p> <p>8 MS. NELSON: Let's make the Record clear.</p> <p>9 The Mary Turner ticket-fixing</p> <p>10 investigation.</p> <p>11 MR. JAFFREE: Well, yeah, but --</p> <p>12 MS. NELSON: After which Mary Turner was</p> <p>13 suspended.</p> <p>14 MR. JAFFREE: And after which it turned</p> <p>15 out there was no ticket fixing.</p> <p>16 MS. NELSON: And she was indicted.</p> <p>17 MR. JAFFREE: And she was not indicted for</p> <p>18 any ticket fixing. It was a</p> <p>19 misdemeanor.</p> <p>20 MS. NELSON: Well, she was charged with</p> <p>21 extortion.</p> <p>22 MR. JAFFREE: She was not charged with</p> <p>23 extortion. She was charged with</p>

29 (Pages 113 to 116)

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FREEDOM COURT REPORTING

Page 117	Page 119
<p>1 something dealing with misapplying 2 records. She was not charged with 3 extortion. 4 MS. NELSON: She was charged with a 5 criminal offense. 6 MR. JAFFREE: She was charged with a 7 misdemeanor. 8 MS. NELSON: Well, we could sit here and 9 banter back all day. 10 MR. JAFFREE: I can prove my point. 11 MS. NELSON: Let's make the Record clear, 12 that the question on the table was 13 what? 14 MR. JAFFREE: The question on the table 15 was -- 16 MS. NELSON: How long -- 17 Q. Did you inform her that the investigation was 18 complete? 19 MS. NELSON: The investigation into the 20 Mary Turner ticket fixing. 21 Q. The investigation involving Mary Turner and 22 the ticket. Did you inform the judge when 23 that investigation was complete?</p>	<p>1 report. 2 A. I don't think that's correct. 3 Q. Well, that's what you implied, that she was 4 notified that the investigation was complete 5 when you turned in the report. You turned in 6 the report in May. So it was your 7 understanding, there should be no contact with 8 Mary Turner until May? 9 A. The directive not to talk to Ms. Turner I 10 don't -- I'm not certain, but I don't believe 11 it came at the same time that this report 12 was -- 13 MS. NELSON: No. We're confusing things. 14 Q. Follow me carefully. Do not talk to her 15 during investigation of the ticket. 16 A. Pardon me? 17 Q. The mandate was to not talk to Ms. Turner 18 during the investigation involving, as counsel 19 would say, ticket fixing? 20 MR. JAFFREE: Did you like that? I'll go 21 along with the ticket fixing. 22 MS. NELSON: I'll say ticket. I just want 23 to make sure what ticket and what</p>
Page 118	Page 120
<p>1 A. I prepared the report, and I submitted it to 2 Chief John Powell. And it was subsequently 3 given to the judge. 4 Q. What was -- and this was involving the ticket? 5 A. That's what you -- you asked me about. 6 Q. Is that what you're talking about, is the one 7 involving? 8 MS. NELSON: The Mary Turner ticket with 9 Bradley Phelps? 10 Q. You prepared that report? 11 A. Yes. 12 Q. And did you tell her then that the 13 investigation was complete? 14 A. I don't know if I told her it was complete. I 15 submitted a report upon the completion of the 16 investigation. 17 Q. Well, what date did you submit that report? 18 A. On or about May the 2nd of 2005. 19 Q. So there should have been no contact with 20 Ms. Turner from March the 10th until May the 21 2nd; is that correct? 22 MS. NELSON: Object to the form. He just 23 said that's when he turned in the</p>	<p>1 investigation we're talking about. 2 And I think we've established that 3 took place on or about May the 10th. 4 THE WITNESS: Yeah, that's correct. 5 MS. NELSON: Of 2005. 6 THE WITNESS: That's correct. 7 MS. NELSON: Just trying to move things 8 along. 9 A. That's correct. 10 Q. So the first word that the judge would have 11 had that the investigation was complete would 12 have been in May of 2005? 13 MS. NELSON: Object to the form. The 14 internal affairs investigation? 15 Q. Internal affairs investigation, May of 2005? 16 A. That's correct, when my report was finished. 17 Q. So your mandate would have been, nobody have 18 any contact with Mary Turner for two months? 19 A. As it relates to the criminal -- excuse me, 20 not the criminal investigation, as it relates 21 to the investigation. 22 Q. Well, do you know whether or not Mary Beth had 23 any contact with Mary Turner involving the</p>

30 (Pages 117 to 120)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 121</p> <p>1 criminal investigation?</p> <p>2 A. I don't know whether they had contact</p> <p>3 involving a criminal investigation or not.</p> <p>4 Q. Well, there was --</p> <p>5 A. They had contact during the administrative</p> <p>6 investigation.</p> <p>7 Q. All right. During the administrative. Do you</p> <p>8 know if they -- do you know if Mary Beth</p> <p>9 contacted Mary Turner about the ticket</p> <p>10 investigation?</p> <p>11 A. I know that Mary -- could you rephrase -- say</p> <p>12 that again?</p> <p>13 Q. Let me ask it a different way: Based on</p> <p>14 information that you got from Mary Brackin,</p> <p>15 what was the nature of her contact with Mary</p> <p>16 Turner?</p> <p>17 A. She stated that she needed to obtain a</p> <p>18 show-cause letter and get the, quote, unquote,</p> <p>19 setup on it -- I believe were her words she</p> <p>20 used -- in reference to a show-cause letter.</p> <p>21 Q. If that statement is true, then did that have</p> <p>22 anything to do with contacting Mary Turner</p> <p>23 about the investigation?</p>	<p style="text-align: right;">Page 123</p> <p>1 Q. Yeah. Did you think through the consequences?</p> <p>2 A. Through --</p> <p>3 MS. NELSON: Object to the form.</p> <p>4 A. What do you mean?</p> <p>5 Q. Well, that you was -- wait a minute. Let</p> <p>6 me -- since you haven't answered that yet, let</p> <p>7 me --</p> <p>8 MS. NELSON: He doesn't understand you.</p> <p>9 He says, what do you mean. I've</p> <p>10 objected.</p> <p>11 Q. I'm going to replace it with another question</p> <p>12 that may make it easier for you to understand.</p> <p>13 Were you aware that Mary Beth and Mary</p> <p>14 Turner were close friends?</p> <p>15 A. Yes.</p> <p>16 Q. That they socialized with each other?</p> <p>17 A. That, I don't know.</p> <p>18 Q. Did you expect that for the period of time it</p> <p>19 took for the investigation to be completed,</p> <p>20 Mary Beth and Mary Turner should cease having</p> <p>21 any kind of social relationship with each</p> <p>22 other?</p> <p>23 A. Well, if I recall right, the judge told them</p>
<p style="text-align: right;">Page 122</p> <p>1 MS. NELSON: Object to the form.</p> <p>2 A. It doesn't have anything to do with contacting</p> <p>3 her about the investigation, but she wasn't</p> <p>4 supposed to contact with her.</p> <p>5 Q. Well, did you expect your directive to be all</p> <p>6 inclusive to no-contact at any time for any</p> <p>7 reason?</p> <p>8 A. During the course of the ongoing</p> <p>9 investigation -- let me refer back to the</p> <p>10 directive that was given.</p> <p>11 (Brief pause)</p> <p>12 A. Yes. The directive was to strictly refrain</p> <p>13 from any contact with Ms. Turner while the</p> <p>14 internal affairs investigation was underway</p> <p>15 and not to discuss with anyone the matter --</p> <p>16 the matter of the investigation.</p> <p>17 Q. So that was all contact of any nature,</p> <p>18 correct?</p> <p>19 A. It says, any contact.</p> <p>20 Q. Did you think through the consequences of your</p> <p>21 suggestion when you made it to the judge?</p> <p>22 MS. NELSON: Object to the form.</p> <p>23 A. Was that a question? I'm sorry.</p>	<p style="text-align: right;">Page 124</p> <p>1 that any contact with Mary Turner should go</p> <p>2 through her -- should go through her and would</p> <p>3 be approved by her. So to me, with that</p> <p>4 stipulation there, that doesn't mean 100</p> <p>5 percent that it's no possibility whatsoever.</p> <p>6 She just needed to approve it as the</p> <p>7 investigation was ongoing.</p> <p>8 Q. So every contact had to be precleared through</p> <p>9 the judge?</p> <p>10 A. Yes, if there was to be contact during this</p> <p>11 investigation.</p> <p>12 Q. Even contact after hours?</p> <p>13 A. I'd have to make an assumption. The directive</p> <p>14 was for them not to have contact. If they had</p> <p>15 to do -- to have contact with her, contact the</p> <p>16 judge pretty much for direction.</p> <p>17 Q. And if they were going to meet in church,</p> <p>18 contact the judge?</p> <p>19 A. I'm not reading between any lines. That was</p> <p>20 just what was said. And the interpretation of</p> <p>21 that is, I guess, what you're asking for?</p> <p>22 Q. Uh-huh (positive response).</p> <p>23 Now, have you ever given a non-police</p>

31 (Pages 121 to 124)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 125</p> <p>1 officer employee of the City of Dothan that</p> <p>2 type of directive before?</p> <p>3 MS. NELSON: What -- not to --</p> <p>4 Q. To not contact their friends?</p> <p>5 MS. NELSON: Object to the form. Not to</p> <p>6 discuss an ongoing criminal</p> <p>7 investigation, not to contact somebody</p> <p>8 under suspicion?</p> <p>9 MR. JAFFREE: Forget about the --</p> <p>10 MS. NELSON: No. I think you need to ask</p> <p>11 him --</p> <p>12 Q. Don't contact their friends?</p> <p>13 MS. NELSON: Object to the form. That's</p> <p>14 totally --</p> <p>15 Q. You bifurcated these statements that the judge</p> <p>16 made. You said, don't discuss the criminal</p> <p>17 investigation. No contact. You made them two</p> <p>18 separates things.</p> <p>19 MS. NELSON: The directive was not to have</p> <p>20 contact with your friends; it was to</p> <p>21 have contact with an employee who was</p> <p>22 under investigation.</p> <p>23 Q. But if the employee was their friend, no</p>	<p style="text-align: right;">Page 127</p> <p>1 A. I would need for you to repeat that again.</p> <p>2 You've lost me.</p> <p>3 Q. Let's assume that it was Ms. Brackin's husband</p> <p>4 that we're talking about, and her husband had</p> <p>5 worked with her in the magistrates' office.</p> <p>6 And her husband was on administrative leave</p> <p>7 while they were doing an investigation. Do</p> <p>8 you think this no-contact directive could have</p> <p>9 effectively kept them from associating with</p> <p>10 each other?</p> <p>11 MS. NELSON: Object to the form. Object</p> <p>12 to the hypothetical situation.</p> <p>13 A. Hypothetically, that's up to both of them.</p> <p>14 Q. Up to them?</p> <p>15 A. Whether they --</p> <p>16 Q. They don't --</p> <p>17 A. -- have talked or not but directive was -- was</p> <p>18 clear.</p> <p>19 Q. It would apply to them as well?</p> <p>20 A. The directive was clear. Now, whether they</p> <p>21 did it or not, I don't know whether they would</p> <p>22 or wouldn't.</p> <p>23 Q. At first blush, that type of directive seems</p>
<p style="text-align: right;">Page 126</p> <p>1 contact would mean don't contact your friend.</p> <p>2 MS. NELSON: Object to the form, if that's</p> <p>3 a question.</p> <p>4 A. As it relates to their friendship, I testified</p> <p>5 earlier that I don't have any knowledge</p> <p>6 whether they're close friends or just</p> <p>7 co-workers.</p> <p>8 Q. Let me give you a hypothetical and see if you</p> <p>9 think the directive would apply to this.</p> <p>10 MS. NELSON: Object to any hypotheticals.</p> <p>11 When I raise my hand, that will mean I</p> <p>12 object to the form.</p> <p>13 Q. What if Mary Turner's name was Mr. Turner and</p> <p>14 Mary Brackin's name was Mary Turner, and they</p> <p>15 happened to live together. They both worked</p> <p>16 at the same place. Mr. Turner was on</p> <p>17 administrative leave, under investigation.</p> <p>18 Mary Turner was among a group of people that</p> <p>19 was told, make no contact with Mr. Turner.</p> <p>20 Do you think that directive would still</p> <p>21 apply?</p> <p>22 MS. NELSON: Object to form, to the</p> <p>23 hypothetical.</p>	<p style="text-align: right;">Page 128</p> <p>1 reasonable, doesn't it?</p> <p>2 MS. NELSON: Object to the form.</p> <p>3 A. What do you mean?</p> <p>4 MS. NELSON: To a hypothetical husband and</p> <p>5 wife?</p> <p>6 MR. JAFFREE: Well, no.</p> <p>7 Q. The directive that you suggested that the</p> <p>8 judge give and the judge gave seemed</p> <p>9 reasonable at first blush, doesn't it?</p> <p>10 A. It's reasonable now.</p> <p>11 Q. Reasonable now.</p> <p>12 A. Just like invoking the rule, it's reasonable</p> <p>13 then.</p> <p>14 Q. So would it be reasonable if these two were</p> <p>15 married to each other to have no contact;</p> <p>16 would it still be reasonable?</p> <p>17 MS. NELSON: Object to the form.</p> <p>18 A. Your hypothetical is if both of them worked</p> <p>19 out of the same office --</p> <p>20 Q. That's right.</p> <p>21 A. -- so both of them would be aware of the</p> <p>22 investigation going on, especially if they're</p> <p>23 married. So the directive was clear. And</p>

32 (Pages 125 to 128)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 129	Page 131
<p>1 whether they spoke about it or not, I don't</p> <p>2 have --</p> <p>3 Q. You're not speaking about the investigation.</p> <p>4 If they made contact with each other. You did</p> <p>5 not say that Mary Beth talked to Mary Turner</p> <p>6 about the investigation. You said she talked</p> <p>7 to her about trying to get some information</p> <p>8 that she needed, not about the investigation.</p> <p>9 So forget about the investigation part.</p> <p>10 Would it be reasonable to tell a wife not</p> <p>11 to contact her husband because her husband was</p> <p>12 under investigation?</p> <p>13 MS. NELSON: Object to the form. Object</p> <p>14 to the hypothetical question.</p> <p>15 Q. Do you think that's reasonable?</p> <p>16 MS. NELSON: Not the facts in this case.</p> <p>17 Q. Do you think that's reasonable, those facts?</p> <p>18 A. I don't know.</p> <p>19 Q. So if you change the status of the people,</p> <p>20 then the directive is no longer reasonable?</p> <p>21 MS. NELSON: Object to the form.</p> <p>22 Q. Yes or no?</p> <p>23 A. If I change the status of the people, the</p>	<p>1 them, Ms. Turner -- Ms. Brackin calling</p> <p>2 Ms. Turner after being told not to by the</p> <p>3 judge and making some type of inquiry that</p> <p>4 Ms. Brackin claims that she made.</p> <p>5 And for the Record, Ms. Turner didn't say</p> <p>6 the same thing that Ms. Brackin said in her</p> <p>7 statement.</p> <p>8 Q. I've read Ms. Turner's statement. Ms. Turner</p> <p>9 didn't recall certain things. You won't get a</p> <p>10 specific from Ms. Turner as to what the nature</p> <p>11 of the contact was. I mean, you can look, but</p> <p>12 you won't get it.</p> <p>13 MS. NELSON: Can we go off the Record for</p> <p>14 a minute?</p> <p>15 (Off-the-Record discussion.)</p> <p>16 Q. I don't have any more questions of you. If</p> <p>17 counsel wants to ask you some questions, she</p> <p>18 can.</p> <p>19 MS. NELSON: I'm just saying --</p> <p>20 MR. JAFFREE: I don't have any more</p> <p>21 questions.</p> <p>22 MS. NELSON: I don't either. I don't have</p> <p>23 any questions.</p>
Page 130	Page 132
<p>1 directive --</p> <p>2 Q. Directive is no longer reasonable?</p> <p>3 MS. NELSON: Object to the form.</p> <p>4 Q. Well, are you saying it is reasonable to apply</p> <p>5 to a husband and wife, no contact with each</p> <p>6 other?</p> <p>7 A. I'm --</p> <p>8 MS. NELSON: Object to the form. It's</p> <p>9 hypothetical.</p> <p>10 A. I'm saying that your hypothetical question is</p> <p>11 not what happened.</p> <p>12 Q. Well --</p> <p>13 A. And what happened was, Mary Beth Brackin was</p> <p>14 given a directive not to talk, not to</p> <p>15 associate, not to have anything to do -- and</p> <p>16 I'm just paraphrase -- trying to paraphrase</p> <p>17 what I read already -- with Ms. Turner during</p> <p>18 the ongoing investigation.</p> <p>19 The major offense of insubordination had</p> <p>20 to do with Mary Brackin talking to Ms. Turner</p> <p>21 after she was told not to. It didn't have to</p> <p>22 do with them coming together, meeting, not</p> <p>23 meeting. In this report, it had to do with</p>	<p>1 Q. I appreciate your being here. And we shall</p> <p>2 remains friends. Okay?</p> <p>3 A. Oh, yeah.</p> <p>4 (Deposition concluded at 4:40 p.m.)</p> <p>5 *****</p> <p>6 FURTHER DEPONENT SAITH NOT</p> <p>7 *****</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>

33 (Pages 129 to 132)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 133

A				
academy 9:23 14:13,18	affairs 13:17 14:4 23:2,4,5 23:19 24:4 25:14 26:21,21 27:3,16 28:11 29:5,6 30:2,3 30:16,23 31:19 33:23 34:15,21 35:19 36:15 38:2 40:6 59:14 74:8 98:9 105:7,11 111:1 120:14 120:15 122:14	allegedly 50:16 91:19 allow 58:16 109:19 aloud 71:11,12 ambiguity 99:6 Amendment 58:16,21 Amsouth/Har... 2:8 analysis 18:14 19:7 Andrews 1:19 animal 13:6,6 answer 6:23 7:18 11:1 19:22 26:4 29:18 35:12 36:6 43:21 57:11 61:11,12 63:15 82:4 86:21,22 114:2 114:11,17,20 answered 20:22 110:11 114:4 123:6 answers 13:17 anybody 30:13 35:18 87:20 95:12 96:13 98:21 anyway 15:6 51:6 apologize 71:8 appeal 64:14 65:23 appear 7:2 41:20 APPEARAN... 2:1 appeared 90:8 94:3,7,8 applicant 23:10 23:11	application 10:14 apply 126:9,21 127:19 130:4 appoint 45:17 appreciate 19:10 132:1 apprehensive 60:6 approached 22:2 approve 124:6 approved 124:3 approximate 8:23 approximately 1:21 10:12 14:1 16:17 22:22 arguing 85:11 arm 83:22 arresting 6:9,13 Article 2:15 aside 26:18 55:16 asked 7:4 40:16 42:15,21 44:11 72:19 98:8,8 114:4 118:5 asking 5:10 39:18 42:8 61:15 66:21 69:22 72:4 75:19 88:16 90:23 91:6 109:18 113:14 124:21 assign 28:18 42:3 assigned 28:14 32:2 42:2 48:9 56:21 assist 85:2,3 assistance 38:22	assistant 13:4 88:10,10 associate 130:15 associated 24:9 30:7 74:3 associating 127:9 association 31:10,13 assume 18:19,20 42:19 43:7 63:6 127:3 assuming 7:1,3 8:20 15:19 115:21 assumption 43:11 124:13 attempting 68:3 70:14 attend 18:11 20:7 attended 14:20 20:10 attention 49:10 attorney 49:13 49:23 50:1,5,5 50:6,6 51:19 58:8 60:10,12 60:17 Attorneys 2:8 authority 28:11 28:16,17,18,20 45:14 46:6,17 52:13 106:2 110:17 111:1,3 111:7,18,22,23 112:4 113:3 authorizes 30:2 available 4:19 Avenue 2:9 avoid 58:19 awake 32:9 aware 11:10 27:8 123:13
action 70:1 99:12	afoot 57:1			
activity 28:3,3 28:13 54:10 56:13,23	age 24:17			
additional 83:3	agency 10:19			
addressed 90:14	ago 16:17,18 50:21 65:9			
administration 12:15	agree 59:6 63:17 63:18 66:23 67:14,20 68:4 68:8 70:13			
administrative 12:17 13:4 23:6 31:2,6 54:15 57:12,14 58:18 76:7 83:4 88:10 93:5,7 105:6 106:20 121:5,7 126:17 127:6	agreed 3:2,16 agreement 1:16 ahead 5:22 6:23 7:17 17:5,8 34:17 66:2 92:22			
administrator 69:3	Alabama 1:2,18 1:20 2:5,9 3:8 14:15			
admitted 99:7	allegation 53:12 53:16 54:10,11 60:9,14 67:1 85:8 92:2 107:11			
advice 50:8,11 50:15 52:10 107:14 108:10	allegations 23:8 23:9 50:12 52:8,11 59:18 63:18,19,23 107:18 108:9 108:12,13			
advise 57:8 115:16	alleged 96:8			
advised 52:6 64:14 74:22 76:4,8 105:4,5				
advocate 53:19 53:20,21				

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 134

128:21	39:16 53:2	107:13 108:9	81:13	129:23
B	64:5 73:20	108:19 109:22	capacity 8:13	channels 48:4
baby 33:18	74:17 88:3	110:4,12	9:8 10:7,10	characterizati...
75:18,19	89:23 93:21	111:11 121:14	68:23 88:9	67:11
back 5:2 17:13	119:10 121:19	130:13,20	captain 11:18,19	characterize
17:14 18:1	bench 34:16	131:1,4,6	11:21,22,22,23	16:12
33:22 40:20	best 12:19 26:3	Brackin's 41:3	12:12,14 39:8	characterized
43:4 44:18	Beth 1:6 41:3	60:8 126:14	40:5,11,12	10:21 25:6
48:13 54:5	49:11,22 64:12	127:3	captains 11:19	charge 69:6 79:2
65:12 67:17	100:21 101:5	Bradley 118:9	13:22	94:18,21 97:20
73:5 74:1,4	101:11 103:17	branches 12:4,6	care 9:18 34:22	106:10,12
114:9 115:8	108:9,18,22	12:21	80:9,13,14,17	107:17 109:21
117:9 122:9	109:22 110:4	bread 32:5	80:18,19,22	charged 116:20
backgrounds	120:22 121:8	break 70:8	97:7	116:22,23
23:11	123:13,20	Brief 44:7 65:8	cared 97:11,16	117:2,4,6
bad 50:4 52:10	129:5 130:13	66:3 67:22	career 18:9	charges 56:9,17
109:11	Beth's 61:12	82:3 85:14,19	carefully 119:14	chart 12:22
ballpark 58:9	bewildered 70:6	87:23 100:4	CAROL 2:7	charter 24:6
banter 47:8	bifurcated	104:23 107:6	case 1:8 3:18,19	31:22
117:9	125:15	114:19 115:2	6:6 18:15	chase 25:13
based 40:15	Birmingham 2:9	122:11	28:20,23 29:21	chief 11:16
47:14,21 54:6	bit 16:18 18:23	bring 69:23	38:11 49:12	13:18,20 14:3
56:14,18 62:3	19:12	broad 30:13	50:8 52:14	14:22 23:16,17
64:10 81:17	blank 44:9	brought 23:22	58:5 81:7,9	28:14,17 32:2
121:13	bluntly 33:2	56:17 84:19	95:20 99:15	39:8,15,16,21
basically 49:14	blush 127:23	building 6:10,12	100:6,9 102:3	40:10,11 42:16
59:9 65:18	128:9	bulk 52:16	104:9,12	42:21 43:3
107:11	bondsman 52:23	bureau 40:5	107:22,23	45:16 46:14
basing 20:20	53:4	business 31:1,10	108:11 129:16	48:3,5,7,11,14
Bates 41:1,2	book 9:19	31:12 76:14	cases 58:18	48:16 73:9
84:10	boss 32:4	buttered 32:5	caused 86:4	74:20,22 112:1
Bates-stamped	bottom 15:18	bypasses 13:22	cease 123:20	112:2,3,19
84:13,15,20	41:8		Center 1:19	114:7,9,12
becoming 35:4	Brackin 1:6	C	6:10,14	115:20 118:2
35:21	40:1 49:11,22	call 21:12 24:13	certain 16:8	Choice 58:20
behalf 6:17	50:4 51:16	55:17 59:12,13	27:12,16 39:12	church 124:17
32:12,14	52:7,12 54:17	75:17	46:22 119:10	circumstances
believe 6:7	56:18 57:9	called 6:17	131:9	8:17 20:21
12:14 14:2	62:15 64:23	24:12 35:23	Certified 1:17	citizen 30:10
16:4,10 18:1,1	65:18 66:13	36:1,3,9 41:21	3:7	111:2,3,9,9,11
21:10,14,15	68:5,10 74:1,2	110:13	certify 5:3	citizens 30:18,20
25:23 27:15	100:17,21	calling 30:5,9	chance 64:3	city 1:9 6:7,19
34:8 38:10	101:2,6,11,11	82:6 131:1	79:20	7:4,20 8:6,7,13
	102:19 103:1	calls 57:19 58:2	change 129:19	8:14 9:1,6

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 135

10:16,21 11:2	close 12:11	complain 30:19	confused 71:3	121:22 122:2
11:4,8,13	123:14 126:6	complaining	71:16 91:5,10	contents 102:21
14:17 23:20	code 23:22	30:20	91:11,12,15,17	control 19:1
24:9,20,22	Coleman 61:15	complaints	102:6,8 104:2	conversation
25:2,9,16,19	61:18 62:14	30:19 51:18	confusing 91:2,2	110:22
26:23 27:4	71:4,8,16,18	60:12 65:2	102:2,4,5	Cooper 2:7
30:10,13 31:11	71:19	66:14 67:2	119:13	copies 41:17
31:13 33:5	Coleman's	complete 61:6	confusion	copy 5:11,13
35:8,20,22,23	61:14 71:22	62:9 106:17	109:17	40:19 72:22
35:23 36:19	come 7:5 9:17	117:18,23	connected 11:3	73:13 83:14
37:7 38:5	12:5 13:5	118:13,14	13:19 14:2	84:19
57:10 106:6	40:10 42:12	119:4 120:11	connotes 78:1	corporal 15:11
111:12,14	43:17 49:10	completed	consequences	16:3,6 28:15
125:1	64:20 70:14	115:17 123:19	122:20 123:1	correct 5:9
City's 6:20 7:1	74:16 115:20	completely 91:2	consider 59:15	16:12 24:18
41:15 43:23	comes 13:12	completion	110:2	26:17 28:4
Civic 1:19 6:10	comfortable	118:15	considered	40:15 41:22
6:14	47:1,4,9,11	concern 4:17,18	105:21	42:5 45:19
Civil 3:5,14,21	59:22 60:3	98:1,2	considering	46:7 60:14,15
civilian 30:5	coming 14:3	concerned 26:16	33:10	60:17,19 61:16
civilians 30:4	29:1 37:3 56:9	78:10 97:8	constitutes	62:21 66:16
claims 131:4	56:13 130:22	103:10	52:16	73:16 78:20
clarification	commander	concerning	contact 101:8,9	81:10 86:6
58:1 72:14	40:5	48:19 75:14	102:18 103:1,5	94:7 95:8,18
104:2	commencing	76:1 95:5	103:6,6,17	95:23 97:13,18
clarify 33:8	1:20	concluded 132:4	104:20 105:10	98:22 103:23
37:15 47:22	comment 29:22	conclusion	109:4 110:20	114:8,10 115:6
53:9	comments	57:19 58:3	111:2,20 112:6	118:21 119:2
clarifying 29:13	109:13	81:3	112:10,20	120:4,6,9,16
clarity 30:5	commission 3:9	conduct 42:21	114:14 116:2	122:18
classified 10:5	Commissioner	48:14 113:8	118:19 119:7	corrections 9:16
clean 109:16	1:17 3:7	conducted 26:21	120:18,23	correctly 40:14
clear 28:8 85:23	committed	27:3 32:22	121:2,5,15	42:1
88:16 91:21	100:18	74:9 105:8	122:4,13,17,19	costing 83:22
99:3 109:20	commonly 9:15	conducting	124:1,8,10,12	counsel 3:3,17
116:8 117:11	communicate	34:21 35:2	124:14,15,15	4:18 7:20
127:18,20	112:5	conducts 23:15	124:18 125:4,7	32:19 35:16
128:23	communicated	confirm 63:19	125:12,17,20	41:15 43:23
clerk 36:3	42:20 99:18	63:22 66:18	125:21 126:1,1	44:1 52:14
clerks 12:16	communicatio...	67:1,9	126:19 128:15	79:19 81:23
35:23	13:5	Confirming	129:4,11 130:5	93:16 119:18
clever 37:10	compelled 57:11	65:9	131:11	131:17
55:18	compelling	confuse 71:22	contacted 121:9	course 60:5
clinic 24:23 25:9	58:22	104:10	contacting	122:8

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 136

court 1:1,17 3:7 4:22 5:3,10 36:16 44:21 49:13 57:23 61:1,22 62:2 63:2,5 72:13 113:5	dealt 66:12 decides 28:18 defendant 6:6 7:6 49:12 50:8 52:14 108:11 defendants 1:10 2:6 4:18 defendant's 6:7 defender 61:23 definition 30:18 111:22 deliberation 115:5 demands 104:19 denied 63:17 72:18 deny 60:14 department 10:9,19,22 11:2,3,7,11,12 11:13,16 13:8 13:10 23:7,8 23:12,13,14,20 24:11,14,15,16 24:19,22 25:1 25:5,11,12,16 25:19,22 26:9 26:16,19 27:1 27:5,6,10,20 28:6,12,22 30:9,15 32:12 32:23 33:6,12 34:2 35:3,7 36:19 37:7 38:5,9 42:10 42:11 48:2 69:3,6,10 74:4 74:16,16 86:5 96:2 99:7 106:19,22 107:1,2 110:14 111:1 112:5,6 112:13 departments	24:8 26:22 27:4 departure 110:12 depends 37:23 82:17 deponent 6:17 37:10 132:6 depose 37:20 deposition 1:15 3:4,6,12,18 4:3 4:14,19 5:12 5:17 6:3,11 7:3 7:13,14,16 8:18 14:6 44:4 46:9 83:22 132:4 derived 58:7 description 50:9 designed 58:14 designee 74:17 details 8:21 detention 17:15 dialogue 92:19 different 12:4 16:22 18:10 24:8 33:13 59:10 68:9 74:15 88:9 90:4 93:8 104:19,21 105:12 121:13 direct 48:23 102:17 directed 26:6,7 26:12 49:1 76:20 95:19 98:12,20 101:7 101:8 105:9 110:7 111:16 112:12 directing 39:21 102:23 direction 23:17	98:18 105:22 124:16 directions 42:11 105:15,16,19 directive 77:6 80:23 81:4,5 95:18 97:2 98:23 99:2,3,9 99:13 100:3 102:17 103:16 113:19 115:12 119:9 122:5,10 122:12 124:13 125:2,19 126:9 126:20 127:8 127:17,20,23 128:7,23 129:20 130:1,2 130:14 directives 77:3 directly 13:18 13:19 14:3 42:13 disagreed 72:7,8 disagreeing 70:23 disciplinary 99:11 discipline 68:5 68:10 99:14,15 disclose 80:2 92:10,11 discover 96:1 discretionary 113:9 discuss 104:19 122:15 125:6 125:16 discussing 68:8 69:21 discussion 49:4 52:17,23 54:16 80:7 88:2 131:15	discussions 7:19 dismissed 85:9 dispositive 4:20 distinguished 15:16 distorting 101:20,21 DISTRICT 1:1 1:2 division 1:3 11:20 12:1 13:1,1,3,11,12 13:17 14:5 17:2,3,3,9,11 17:20 18:6 23:7 24:5,6 27:3,17 30:3,7 30:16 36:3 57:3 divisions 12:12 13:2 docket 13:3 17:14 document 4:15 30:1 39:6,11 63:2,6 documents 38:19,20 104:15 doing 19:12 72:18 74:6 80:15 89:15,17 127:7 Donna 62:17 66:17,23 67:15 67:19,20,21,23 69:16,21 Donna's 67:15 Dothan 1:9,18 1:19 6:7 8:6,13 9:6 10:16,21 11:2,4,8,13 14:14,17,19 23:20 24:9
D				
date 63:4 85:15 85:17 118:17 dating 24:17 day 16:23 41:19 51:14 105:13 105:16,17 117:9 days 105:13 deadline 4:21 dealing 27:13 33:10 38:2 83:7 98:6 117:1 deals 23:8				

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 137

25:10,16 26:23	52:7 57:9	EXAMINATI...	61:5 62:16	fine 19:2 46:3
27:14 30:2	96:23 100:8	4:8	96:3 100:14	64:2 68:18
33:6 36:19	101:6 110:14	exception	facts 8:17,21	72:8,10 112:17
37:7 38:5	111:14,19,20	106:18	19:16,17 20:3	fingerprint 9:19
57:10 106:7	125:1,21,23	exchanged 85:9	20:19 22:10,16	finish 77:2
111:13 125:1	employees 25:8	excluding 27:5	47:21 48:18,22	finished 95:22
Dothan's 111:14	25:17,22 26:1	excuse 7:7 51:23	53:7,12,16	120:16
dovetails 9:4	31:1 32:23	88:6 103:4	55:22 56:18	fire 24:19 25:19
Drone 11:23	68:21 76:8,20	105:4 108:20	102:3 104:9,11	25:22 27:9
drunk 66:10	100:5 101:4,14	111:10 120:19	106:3 107:19	28:6,12,22
due 93:10	102:18,23	exercise 4:12	108:13 129:16	106:19 107:1
DUI 64:13	105:5,9 110:20	exhibit 2:12,13	129:17	first 4:5 8:22 9:5
duly 4:5	112:10	41:6,9,20 45:8	factual 18:14	17:13 21:2,9
duties 50:10	empty 47:20	83:14 85:4,5	fair 53:10	21:12,13,23
	encourage 70:14	85:16 94:6	fall 106:8	30:12 51:19,21
E	encouraged	102:1,20	familiar 57:21	63:7 64:13
earlier 59:8 83:9	45:16	existed 37:22	58:5 113:6	65:21 66:8
93:12,14	English 78:16	existence 23:23	far 11:4 20:14	68:20 110:17
101:16 107:13	enjoy 79:21	expect 122:5	23:18 24:11	114:11 120:10
126:5	entire 58:11	123:18	30:22 40:15	127:23 128:9
early 29:4	83:16,20	expedite 4:23	62:1 63:8,13	firsthand 96:14
easier 123:12	entry 70:16	experience	76:17 78:10	fit 22:10,16
effectively 127:9	environmental	21:23 32:10	103:9	five 12:12
eight 22:22	24:13,15 25:15	54:7	fast 16:13,20	fixing 91:19
eight-hours	errors 5:9	experienced	Federal 3:5,14	92:2 116:15,18
31:16,16	escape 15:4	20:5	3:20	117:20 119:19
either 3:19	especially	explain 18:23	feel 47:1,4,9,11	119:21
18:11,18 24:5	128:22	113:13 114:1	96:17	float 17:3,7
39:4,4,8,8 40:8	ESQUIRE 2:3,7	explained	feeling 79:19	focus 97:2
40:11 61:22	essence 50:3	107:12	feelings 80:21	focused 8:15
66:18 96:14	established	explanation	80:23 97:19	37:11
131:22	120:2	22:14	fell 106:8,9,11	follow 92:5
element 26:13	EVANS-GOR...	exposed 80:1	felt 108:14	119:14
emphasis 18:14	1:9	expressed 4:17	field 11:23	followed 28:16
18:15	event 33:10	extent 5:10	Fifth 58:15,20	81:1,4
employed 8:12	everybody 8:12	19:21 36:7	file 5:6 69:23	following 90:18
8:23 9:6 25:9	16:13 87:8	38:17 57:20	70:16	95:6,9
34:20 37:6	110:5	extortion 116:21	find 66:15 78:19	follows 4:7
111:12	evidence 3:13	116:23 117:3	79:23 94:15	force 10:2,21
employee 24:23	evidently 77:7	eyewitness 67:6	96:20 106:10	54:9 86:8
25:8,23 26:7	exact 49:19		106:16 107:8	forensic 20:12
26:10 30:11,14	65:15	F	107:17 108:4	forget 125:9
31:15 34:1	exactly 32:4	facility 9:18	111:6,18	129:9
35:3 38:4,4	88:13	fact 16:18 48:13	finding 41:19	forgot 82:7

367 VALLEY AVENUE

(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 138

form 3:10 6:21 10:23 11:5 17:5 18:16 19:19 21:3 22:11 25:7 29:9 31:4,7,20 32:7,13 33:3 33:19,21 36:5 41:23 42:6 43:10,13,16 45:21 46:1,11 46:19 47:3 50:7 53:8,23 55:9 56:2,10 56:20 57:18 59:10,17 60:1 62:22 63:12 68:6,11 69:11 77:12 79:9 80:11 86:18 101:19 106:23 108:2 109:6 111:4,8 113:12 114:16 118:22 120:13 122:1 122:22 123:3 125:5,13 126:2 126:12,22 127:11 128:2 128:17 129:13 129:21 130:3,8	126:6 132:2 friendship 126:4 front 40:4 84:15 functioning 43:23 further 3:16 25:13 132:6 <hr/> G garrity 28:22 54:17,21 55:6 56:8 57:4,5,17 57:22 58:5,14 86:14 87:21 gather 106:3 gathered 45:1 56:14 58:17 Gayle 2:7 general 53:20 generally 63:10 gentleman 15:22 getting 34:6 44:14 71:3,16 gigantic 75:16 gist 52:18 give 5:11 12:22 28:21 36:8 55:5 56:7 58:8 58:9 63:4 73:6 73:7 86:19,21 87:21 88:14 89:1 105:16 108:6 126:8 128:8 given 4:13 24:3 29:8,15 41:14 50:11 77:6 81:5 96:15 107:21,23 118:3 122:10 124:23 130:14 gives 112:3 giving 46:14 50:1,8 107:13	108:10 glad 68:15 go 5:22 6:23 7:17 9:22 17:5 17:8 33:22 54:5 62:5,6,7 66:2 86:4 92:22 103:1,4 114:9 119:20 124:1,2 131:13 God 12:13 goes 16:13 40:15 76:12 going 8:8 16:8 17:21 18:9 19:4 21:21 32:19 35:5 37:2,20 43:4 62:4,17 67:12 83:18 84:5 97:6 100:10 102:16 115:8 123:11 124:17 128:22 good 43:8,8 50:2 60:22 62:10,16 62:18,18 64:15 66:1 goofing 31:15 Gordon 34:3,16 35:4,7,21 41:21 42:3,12 45:14 52:17 73:5,7 76:5 86:12,14,16 Gotcha 115:1 government 2:4 10:20 25:2 57:10 governmental 57:9 111:13 Gray 1:15 3:4 4:4,11 36:22 group 126:18	Grumbach 66:17,23 67:18 guards 13:13 guess 15:7 16:8 17:21 21:21 24:19 29:20 35:9 37:20 40:18 43:17 98:11 110:11 115:6 124:21 guessing 21:22 guilty 64:13 65:21 guys 21:11 <hr/> H half 17:22 37:11 hallmarks 43:8 hand 58:15,16 126:11 handbook 24:3 happened 10:13 48:4 105:12 126:15 130:11 130:13 hard 75:15,18 head 11:16 13:15 25:12 42:10,11 74:17 83:23 health 24:22,23 hear 7:9 109:13 heard 24:16 52:4 79:13 hearsay 34:23 47:15 heath 25:9 help 19:11 36:9 45:15 82:1 104:3 helped 21:11 34:19 helpful 35:17 hereto 3:20	he'll 90:21 highlight 41:11 highlighted 41:11,12 hired 10:15 history 58:11 Hobson's 58:20 Hold 55:4 hope 20:22 hopefully 5:1 hoping 93:23 hours 72:1 124:12 Houston 76:11 huh 32:6 68:13 hunt 83:11 84:7 husband 127:3,4 127:6 128:4 129:11,11 130:5 hypnosis 20:12 hypothesis 22:10,16 hypothetical 126:8,23 127:12 128:4 128:18 129:14 130:9,10 Hypothetically 127:13 hypotheticals 126:10 <hr/> I IA 14:2 idea 18:17 28:10 113:20 identification 41:7 85:6 ignorant 15:2,3 ignore 6:22 implicated 79:5 implied 119:3 imply 41:14
--	---	--	--	--

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 139

important 105:22	75:2,14 76:1,5 76:17 77:4,11	112:19 114:13	interview 2:14 54:23 56:15	47:2,16 48:11 48:15,21 49:1
improper 97:17	78:19 79:5	45:22 64:12	64:10 70:9	50:3 57:2,13
inadequate 52:15	80:1,9 81:10 82:14,17,19,21	65:20 87:11 88:14 89:2,4	86:4,7,12 87:15 96:5,8	57:15,16 59:1 59:3,12,13,15
incident 48:20 73:4	83:8 86:1,9,17 88:20,21 89:5	89:12,19 110:19	interviewed 67:15,21,23	59:21 69:7,18 73:3,23 74:6,9
include 12:15,16 30:17	90:12,16,16 92:11 93:11	instructing 65:23	71:5 88:3 95:11 100:12	74:12,21,23 75:5,6,8 76:3,6
included 73:11	94:6,8 95:5	insubordination 100:20 108:18	110:4	76:10,16,18
inclusive 122:6	96:9,13,14,16	130:19	interviewing 68:19	77:5,10,23 78:18,23 79:1
incompetence 67:2	97:8,10,20,22 98:2,4,6,10,10	intelligent 37:10	intimately 67:8	82:16 83:2,3,7
incompetent 49:14 60:11 65:1	98:14 99:19 100:2,13	intend 47:19	introduced 3:18 61:21 63:10,13	83:16 86:2,3 87:4,7,10 88:4
incorrect 16:3 60:18 92:6	101:18,23 102:12,14	intent 55:23	invade 44:1	88:20 89:16,17
independent 11:7 48:18 82:22	103:8,15 108:21,23	internal 13:17 14:4 23:2,3,5	investigate 23:9 30:3 31:1,19	89:20,22 90:2 90:6,11,13,15
independently 39:3 85:13	109:3,5,8,21 110:1,2,5,9	25:14 26:20,21 27:3,16 28:11	32:2 42:13 50:14 69:9	91:7,19 92:7 92:12 93:10
INDEX 2:12	115:9 116:4,5 121:14 129:7	29:4,6 30:2,3 30:16,22 31:18	81:2 97:21 98:12 110:13	94:15 95:5 97:1,3 98:5,17
indicate 35:13 64:22 70:5	informed 94:12	33:23 34:15,21 35:19 36:15	investigated 25:21 27:18	98:21 99:19 101:5,10,13,15
80:16 105:21 115:11	initially 56:21	38:2 40:6 59:14 74:8	28:11,20,21 33:18 108:12	101:17,22 102:11,22
indicated 50:22 60:16	initiated 32:11 42:4 46:18,23	98:8 105:7,10 111:1 120:14	investigating 36:15 48:20	103:7,9,12,14 104:1,20 105:8
indicating 55:12 74:8	47:2,15 69:17 74:12 90:14	120:15 122:14	54:13,14 59:18 94:21 108:21	105:11 106:13 106:17 107:3,9
indicted 116:16 116:17	initiating 48:21 88:19	interpret 22:7	investigation 19:14 20:15	107:10 109:1,8 110:6 111:17
individual 20:9 97:2 100:11	initiative 112:23 113:2	interpretation 97:15 124:20	22:3,6,21 23:1 25:15 26:2,6	112:11 113:7,8 115:14,17,22
inferences 109:16	injustice 61:6,7	interrogate 59:23	26:11 27:13 28:5,14 30:23	116:6,7,10 117:17,19,21
infiltrate 109:12	inquiry 131:3	interrogating 59:16	32:11,22 33:1 33:2,11 34:1	117:23 118:13 118:16 119:4
inform 117:17 117:22	inside 82:19	interrogation 59:13	34:22 35:2,20 36:18 37:5,14	119:15,18 120:1,11,14,15
information 50:2 56:14 58:17 59:2,20	insinuating 49:22	interrupted 57:23 72:13	37:16,17 38:15 39:22 41:22	120:20,21 121:1,3,6,10
	insist 62:13	interruption 44:7	42:2,3,5,15,22 45:17 46:13,18	121:23 122:3,9
	installation 34:2 34:4	interspersed 71:6		
	instance 31:14			
	instigated 69:7			
	instruct 111:2			

367 VALLEY AVENUE**(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660**

FREEDOM COURT REPORTING

Page 140

122:14,16	118:4,7 119:18	103:21 104:6	112:8,9,12,16	24:12,23 25:3
123:19 124:7	120:23 121:3	104:11,14	112:19 114:14	25:4,8,10,11
124:11 125:7	in-process 9:17	108:4 109:9,11	115:11,16	25:11,12 26:5
125:17,22	ISHMAEL 2:3	109:18 111:10	116:1 117:22	29:23 30:22
126:17 127:7	issue 6:5,13 91:3	113:14 114:2	118:3 120:10	32:5,10 36:1,7
128:22 129:3,6	issues 33:9	115:3 116:11	122:21 123:23	36:9 43:2,4
129:8,9,12	Ivan 1:15 3:4	116:14,17,22	124:9,16,18	45:13,23 46:3
130:18	4:4,11	117:6,10,14	125:15 128:8,8	46:17 47:4,7
investigations		119:20 125:9	131:3	47:14,17,18,23
12:23 18:3,6	J	128:6 131:20	judge's 88:9	48:6,12,18,22
23:4,15 26:22	Jaffree 2:3,3 4:9	jail 9:9,10,11,13	95:18 98:18	51:7,13 54:12
27:4,17 30:17	7:22 8:2,8 17:6	9:17 10:6,7,11	99:2,3,5,9,13	54:16,21 55:9
33:4,14 37:19	19:1,10,23	17:15,16 18:1	100:3 102:17	56:11,23 57:4
38:1 45:2 57:3	22:13 25:4	job 50:9 58:21	judgment 5:5	57:17 58:11
74:15	29:13,20 31:8	62:19 80:15	judicial 26:19	61:9,21 62:17
investigative	31:12 32:8,15	113:11,16,18	27:6 32:12,23	63:13 65:20,21
113:4,17	32:18 33:20	John 48:17	33:6,11 34:1	68:17 71:23
investigator	34:5,9,17 35:9	118:2	35:3,6 36:2,19	73:11 75:15,22
20:4 21:8,13	35:13 36:8,12	judge 1:9 34:2	37:6 38:5,9	77:14 78:13
21:19 36:15	37:9 40:18	34:15 35:4,4,7	74:3 86:5 96:2	79:6,17 80:12
43:8 44:13	41:2,5,16 42:8	35:21,21 41:21	99:7 106:21	81:18 82:15
54:14,15	44:8,13 45:9	42:2,10,12,15	107:2 110:14	85:20 86:23
investigators	45:11 46:2,4	42:20 45:14	jump 25:13	87:1,6,12
18:8 20:5 21:7	46:15 47:7,12	46:18,23 47:2	104:10	88:13 90:19
22:2 42:16	50:19,22 51:3	47:14,15,23	junk 36:13	103:19 104:11
55:19	51:7,11 55:10	48:1,5,7,19,23	juvenile 13:1,12	104:18,21
invoking 113:5	55:12 56:5	49:2,8 52:4,6		105:1,2,18
128:12	61:3 62:6,12	52:17 53:6	K	109:11 110:19
involved 28:2,5	64:6 66:6,20	54:6 56:15,16	keep 109:15	113:23 114:21
28:8 33:1,4,23	66:21 69:14	69:7,8 73:5,7	Keith 1:15 3:4	118:14 120:22
35:19 36:17	70:21 71:2,14	73:10 76:5,8	4:4,11	121:2,8,8,11
37:5,14,18	71:17,22 72:6	76:19,19 77:6	kept 127:9	123:17 127:21
38:8,13,15	72:8,10,20	80:1,5 86:12	Kimberly 38:10	129:18
67:8 74:13	75:8,12,21	86:14,16 88:13	kind 9:22 23:22	knowledge 11:9
90:1 91:7	77:1,15,19,21	89:1,4 90:14	87:20 89:1	33:5,13 34:20
involvement	78:2,6,16	92:9 93:6	99:11 100:17	34:22,23 35:1
90:21	79:11 80:16	95:12,16,19	113:4 123:21	35:15,18 36:14
involving 30:4	83:11,17,21	97:3 98:20,20	knew 60:16 87:4	46:12 47:13
32:17 38:3,8	84:3,7,11,14	100:5,21 101:8	87:6,9 99:10	56:22 81:8,19
73:23 74:2,2	84:17,21 85:1	102:16,22	know 9:13 11:1	81:23 82:9,14
75:2,10,13	88:1 90:22	103:11,16	11:4,6 12:13	82:22 85:21
91:20,20,23	91:4,8,10,14	104:18 105:3,5	19:16,20 22:2	94:2 107:1
92:2 101:10	92:18 93:16	105:14 107:10	22:4,5,15,17	110:15 126:5
106:19 117:21	101:21 102:4,7	110:7,19 112:7	23:18 24:1,2,8	known 61:19

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 141

63:3,8,11 76:11 82:23 83:1,6 85:8,13 knows 19:20 25:5 46:22 57:20,21	94:4 103:13 110:9,9 116:8 117:11 127:3 level 28:6 levity 32:8 lieutenant 7:23 8:5 16:17 lieutenants 13:2 limit 32:15,18 32:21 limited 35:14 51:8 line 17:13 100:11 linear 91:18 lines 124:19 list 107:4 listening 67:7 literally 60:10 litigation 8:15 little 16:18 18:23 108:20 live 79:18 126:15 located 88:5,7 long 10:10 16:6 16:7,16 22:20 43:4 44:14 61:18 63:3,8 63:11 115:11 117:16 longer 72:21 129:20 130:2 look 19:16 38:19 41:8,20 42:17 42:18 64:4 102:1,9 108:9 131:11 looked 84:21 looking 20:19 22:6 39:20 84:11 85:16,16 109:2 loose 68:4	loss 113:11,16 lost 113:19 127:2 lot 37:19,22,23 38:6 43:20 69:15 71:14 103:20	M magistrate 27:6 35:20,22 36:16 36:18 37:6 38:4,8 51:15 52:13 97:5 magistrates 35:23 68:22 69:5 76:4 87:9 88:8,11 97:9 97:22 98:3,7 98:13,16 127:5 maintenance 13:8 24:11,12 24:16 major 11:17 13:22,23 100:17 106:3 107:4,8,15 130:19 making 18:15 22:15 35:11 73:1 83:12 131:3 managed 15:4 mandate 119:17 120:17 manner 3:19 19:18 March 105:3,4 105:14 118:20 mark 40:18 85:3 marked 41:6,8 85:5 married 128:15 128:23	MARTIN 1:5 Mary 1:6 39:23 41:3 49:11,22 50:4 51:16 57:9 61:12 64:12 74:10 75:2,11,14 76:6,18 77:5 81:5,9,19,22 82:8,13,18 87:14 89:22 90:2 100:17,21 101:5,9,10,11 103:17,19 104:1,20 108:9 108:18,22,22 109:22,22 110:4,6,12,21 111:11 114:14 116:9,12 117:20,21 118:8 119:8 120:18,22,23 121:8,9,11,14 121:15,22 123:13,13,20 123:20 124:1 126:13,14,14 126:18 129:5,5 130:13,20 Marys 103:20 matriculated 14:21 matter 16:18 61:5 122:15,16 matters 30:4 Maynard 2:7 ma'am 19:18 20:3 53:7 McCaskey 1:17 3:6 McDonald's 31:14,14 McGhee 51:19	51:23 52:9 60:22 61:10,19 mean 5:21 23:21 31:5 32:14 36:2 37:23 53:9 56:5 57:21 64:18 65:13 68:17 71:6,15 75:22 77:14,18,23 78:7 80:18,22 81:14 90:3 104:14 113:18 123:4,9 124:4 126:1,11 128:3 131:11 meaning 65:18 media 76:10 80:10 meet 124:17 meeting 92:17 92:23 93:2,6,9 93:12,14 130:22,23 member 10:8 24:4 54:8 members 86:5,7 96:1,2 99:5,6 memo 39:20 50:20 51:6 74:19 memory 43:9,21 44:9 58:13 66:11 mentioned 8:19 mentioning 67:12 merged 93:20 merit 43:15 met 63:1,5,7 Michelle 87:3,12 87:15,21 88:3 88:4 MIDDLE 1:2
--	---	---	---	--	---

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 142

military 15:4,15	names 71:6	42:6 43:2,10	111:4,8 112:18	84:8
mind 39:17 40:8	NANCY 1:5	43:13,16 44:11	113:12,15,22	numerous 65:1
48:8	narcotics 17:19	45:5,8,10,21	114:4,16,20	66:14 67:2
mine 44:9 83:11	17:20	45:23 46:3,8	115:1 116:8,12	
84:7	narrowly 8:15	46:19,21 47:3	116:16,20	O
minute 26:19	nature 20:21	47:10,13,17	117:4,8,11,16	oath 39:19 86:12
54:4 65:9	21:6 100:7,15	50:7,18,20	117:19 118:8	87:17,17,19,20
123:5 131:14	121:15 122:17	51:1,5,10,13	118:22 119:13	object 6:21 7:19
misapplying	131:10	53:8,23 55:8	119:22 120:5,7	10:23 11:5
117:1	necessarily	55:11,15 56:2	120:13 122:1	17:5 18:16
mischievous 77:9,13	30:10 45:4	56:10,20 57:18	122:22 123:3,8	19:19 21:3
77:14,23 78:5	51:1,4 74:2	58:2 59:4,17	125:3,5,10,13	22:11 25:7
78:10	necessary 5:4	60:1 61:2,4	125:19 126:2	29:9 31:4,7,20
misconduct	14:9,11	62:4,7,22	126:10,22	31:23 32:7,13
23:10 26:8,11	necessity 71:1	63:12,20 64:3	127:11 128:2,4	32:20 33:3,19
26:15 31:2,6	need 3:10 7:8	64:7 65:5 66:4	128:17 129:13	36:5 41:23
49:21	37:11 90:3	66:19,22 67:10	129:16,21	42:6 43:10,13
misdeemeanor	94:23 96:17,20	68:6,11 69:11	130:3,8 131:13	43:16 45:21,23
116:19 117:7	102:1 125:10	69:19 70:4,20	131:19,22	46:11,19 47:3
Mobile 2:5	127:1	71:13,15,21,23	never 20:17	50:7 53:8,23
14:16	needed 108:8,14	72:4,7,9,11,15	new 33:8 94:15	55:8 56:2,2,3
Monday 40:5,11	121:17 124:6	74:19 75:6,11	nicely 9:4	56:10,20 57:18
money 27:15	129:8	75:15,22 76:22	Nicholson 67:20	58:2 59:4,17
month 16:19	needs 9:18 19:5	77:2,12,16,20	67:21 68:1,4	60:1 62:22
months 10:12	38:18 47:8	77:22 78:4,12	68:20 69:17	63:12 65:6
14:7 120:18	51:14	79:9,14 80:11	70:9,14	67:10 68:6,11
morning 40:21	NELSON 2:7	80:15,19 81:11	non-criminal	69:11,19 77:12
motion 4:20 5:5	4:1 5:21 6:21	81:13,15 82:4	28:12 30:4	79:9 80:11
mouth 32:20	7:8,17,23 8:5	82:10,12 83:15	non-police 30:6	81:11 84:5
37:3	10:23 11:5	83:18 84:2,5	124:23	86:18 87:5
mouthed 50:4	12:19 17:5,8	84:10,12,16,19	North 2:9	97:11 101:19
mouthful 99:21	18:16,20 19:3	86:18,20 87:5	nose 83:23	106:23 108:2
move 32:20	19:8,19 21:3	87:8,13 88:17	notice 7:2 15:7	109:6 111:4,8
47:12 120:7	22:11 24:1	89:8,21 90:19	28:22 29:8,16	113:12 114:16
municipal 35:4	25:3,7 26:3	91:1,5,9,13,16	54:17,22 55:6	118:22 120:13
35:21 36:16	27:9 29:9,11	91:20 92:4,15	57:5 58:6	122:1,22 123:3
88:6	29:17 31:4,7,9	92:21 94:4,23	87:21	125:5,13 126:2
	31:20,23 32:7	95:22 97:11,14	notified 119:4	126:10,12,22
N	32:13,17 33:3	101:19 102:2,6	November 4:20	127:11,11
N 1:19	33:19 34:4,7	103:3,12,19	no-contact	128:2,17
name 4:10 6:8	34:11 35:5,11	104:3,7,13	115:12 122:6	129:13,13,21
48:15 53:1,1,4	36:5,11 37:15	105:1 106:23	127:8	130:3,8
67:16 76:12	38:16 39:11,18	108:2,15,18	number 8:23	objected 123:10
126:13,14	40:22 41:3,23	109:6,10,15,19	26:1 41:9 61:3	objection 35:6

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 143

82:5,10 83:12 objections 3:9 3:10 objective 18:14 19:7 20:16,19 objectively 19:16 obtain 121:17 obtained 59:20 obviously 70:22 occasion 73:4 occurred 6:16 90:20 100:7 104:4 October 1:20 offense 100:17 106:4 107:12 107:15 117:5 130:19 offenses 107:4,8 offer 19:11 offered 3:12 office 6:9 68:22 76:4 82:16,20 83:8,10 87:9 88:5,8 97:10 97:23 98:4,13 98:16 103:2,5 127:5 128:19 officer 6:8 9:9 9:14,16 10:4,5 10:6,8,11,14 10:15 14:8 15:9,12,18,20 16:1 19:2 20:18,23 21:5 21:13 30:6 67:4 125:1 officers 6:13 14:19 15:3 21:6 30:20,21 official 4:15 Off-the-Record 88:2 131:15	Oh 12:7 21:10 49:20 107:21 110:3 116:4 132:3 okay 7:11 11:3 14:4 16:6 17:23 18:22 26:18 30:8 31:8 34:7 36:17 42:4 43:4 49:20 53:6 55:15 61:9 62:8,12 62:14 64:9 65:17 68:13 72:6 76:15 82:2 92:1,21 92:22 93:19 94:3 102:8 104:17 105:3 110:23 114:18 115:1 132:2 old 9:10,10 44:14 once 17:11 18:4 ongoing 99:20 103:7 111:17 112:11 115:15 122:8 124:7 125:6 130:18 onset 18:7 on-the-job 18:7 operating 29:3 operations 12:1 opinion 59:10 65:19 69:16,19 98:15 opposed 67:7 opposing 79:19 option 65:19 order 5:4 43:18 95:3 ordered 45:16 45:20	orders 42:11 organizational 11:10,15 12:22 original 5:13,14 41:12 outside 30:8,14 97:4 overstepped 52:12 owned 30:23 <hr/> P <hr/> page 40:3 45:10 45:11 61:3,4 84:4,6,8,15 pages 71:13,14 84:13 paper 76:12 paragraph 61:6 paraphrase 49:17 65:14,14 130:16,16 paraphrasing 49:16 52:11 79:16 Pardon 119:16 Parrish 11:22 12:14 39:9 40:12 part 8:6 22:9 23:6 31:22 40:2 46:6 48:2 55:10 56:5 57:10 59:7 66:8,12 72:16 83:13 86:9 88:4 106:10,12 129:9 partial 5:5 particular 17:2 22:7 33:9 72:11,16 83:3 parties 3:3,17 52:21 73:12,14	100:3 parts 46:4 party 3:20 27:7 48:9,10 52:22 53:3 passage 43:18 43:20 patrol 12:13 17:9 pause 65:8 66:3 67:22 82:3 85:14,19 87:23 100:4 104:23 107:6 114:19 115:2 122:11 pay 31:17 penalty 113:10 pending 115:8 people 9:15 20:2 28:21 39:5,7 52:22 58:22 63:11 67:8 79:23 80:4 82:15 94:20 95:11 96:3,5,7 96:8,17 99:12 99:18 100:2,14 110:8 112:12 112:20 114:14 126:18 129:19 129:23 percent 7:5 9:3 16:5,11 21:15 27:12 47:18 124:5 period 123:18 person 39:10,17 40:10 67:17 101:7 112:6 personal 28:6 80:21,22 97:19 personally 28:8 94:10 personnel 69:23	70:16 99:16 100:1,19,23 101:2 106:6 107:21 108:1 persons 98:12 Phelps 118:9 phone 67:5 photography 20:11 pick 95:1 piece 72:11 place 6:11 29:22 36:1 68:20 115:13 120:3 126:16 plain 78:14,16 plaintiff 7:7 Plaintiffs 1:7 2:2 2:13 41:9 45:8 85:4,5 94:6 Plaintiff's 41:6 Plaza 2:8 plead 64:13 65:21 please 64:8 99:22 pleasure 23:16 point 20:17 22:3 35:12 49:2 55:14 72:9,15 85:11,18 92:20 99:16 100:16 112:2 117:10 police 10:2,6,9 10:14,15,19,20 11:11,12,13,16 13:4,6,7,10,18 13:19 14:8,19 14:22 15:2 20:18,23 21:4 23:7,7,9,14,16 23:17 26:23 27:5 28:11,14 28:17 30:7,9
---	--	---	--	--

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 144

30:15,20,21 54:8 69:10 73:9 74:20 86:7 111:22 112:1,2,3 115:20 policy 58:6 99:17 106:15 politically 24:17 polygraph 20:13 portion 5:8 23:6 portions 5:4 position 13:23 34:6 60:8 positive 27:23 41:5 89:13 94:22 124:22 positively 47:18 possibility 26:8 56:8,12 124:5 possible 49:21 56:16 possibly 40:12 49:11 98:13 potential 54:9 Powell 74:22 118:2 power 113:21 114:6,13 practical 5:1 practice 113:4 practices 113:17 precleared 124:8 prefer 113:10 pregnant 33:15 75:17 preparation 44:3 prepared 7:13 7:16 51:11 118:1,10 preparing 44:2 present 81:6	89:10,14 115:6 presently 11:18 presumption 43:12,14 pretty 5:12 28:15 52:10,16 124:16 primary 14:5 principal 76:14 printed 85:21 prior 7:12 9:3 33:7 34:2,4 35:3,20 36:14 48:20 54:16,23 55:1,2,3 80:4 prisoners 9:17 private 15:8,12 15:17 privately 30:23 probably 21:17 36:10,12 40:13 58:10 probation 67:4 procedure 3:5 3:15,21 29:3 process 9:19 promoted 16:9 16:16 17:1 propensity 55:18 protect 58:15 prove 117:10 provide 38:21 39:5 provided 3:14 3:20 100:2 provides 5:13 providing 52:13 province 44:2 public 61:23 publication 85:23 published 85:17 punishment	53:21 purpose 3:13 14:6 57:4,7,8 58:18 68:19 77:22 78:12,15 78:18 92:18 purposes 34:23 41:13 pursuant 1:16 3:4 28:10 45:13 46:5,17 110:16,23 113:3 pursued 77:9 put 21:14 33:1 38:20 69:23 76:7 87:20 93:4 112:16 putting 31:16 32:8 93:3 p.m 1:21 132:4	89:18 questions 3:9,10 57:12 61:16 98:8 104:16 110:17 131:16 131:17,21,23 quickenened 82:1 quite 8:3,11 54:8 111:21 quote 60:21,23 65:10 100:19 121:18	105:17 130:17 131:8 reading 61:2 71:1 124:19 real 62:18 realize 99:4 really 10:2 61:20 66:6 106:20 reason 67:14 78:12 122:7 reasonable 128:1,9,10,11 128:12,14,16 129:10,15,17 129:20 130:2,4 recall 6:2 7:12 18:13 21:20 25:18 32:21 33:22 37:13 38:7,14 43:21 49:8 63:23 64:1,7,8 68:3 69:21 70:2 73:13,17,19,22 100:10 105:23 123:23 131:9 receive 115:18 received 7:2 57:1 96:9 recommend 99:11,14,15,23 100:16 106:3,7 recommendati... 106:5 recommending 53:21,22 record 4:1,10 5:7 29:17,21 34:14 38:17 43:22 44:22 50:23 55:16 56:6 62:8 63:23 70:5
R				
radio 13:8 raise 126:11 Ralpeje 38:11 49:23 50:16 51:16,23 52:1 52:9 63:20,21 63:22 64:10,11 64:16,20,22 65:7 107:14 108:10 Ralpeje's 64:18 65:10 rank 14:23 15:10 16:3 17:10,11 ranks 15:2,3 Rapaport 63:19 Rapelje's 65:17 66:9 rapport 60:22 62:10,16 reach 81:3 read 4:3,13 30:1 38:22 42:14 44:18,21 47:20 58:12 61:6,8 63:1 65:11 70:9,12,18,22 71:7,9,11,12 72:2,22 86:14				
Q				
question 9:5 19:4 20:22 22:12 32:16,18 32:21 34:19 35:14 40:14,16 42:1 43:21 46:2,5 47:10 58:4 61:8,13 61:14,14 63:15 66:5,12,22 67:13 72:17 82:7 85:22 92:4 97:15,17 113:23 114:5 117:12,14 122:23 123:11 126:3 129:14 130:10 questioned 59:19 questioning				

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 145

72:22 83:13	79:5 83:7 86:9	44:21 57:23	102:15 103:9	48:6 54:23
88:1 92:15	89:5 93:10	72:13	rid 51:20,21	55:13 66:7,13
103:22,23	97:20 98:9	represent 8:11	52:3	67:4 81:12
109:12,16,20	103:8,14	8:14	right 4:13 5:8	92:6 105:12
115:3 116:8	108:17,21,23	representing 3:3	10:17 13:15,16	130:4,10
117:11 131:5	109:2,5,7	3:17 8:3 49:14	18:2 27:12	131:19
131:13	116:4,5	request 37:13	28:1 35:16	says 20:15 42:4
recorded 80:7	released 76:17	38:14	45:13,15 48:12	63:1,8 122:19
records 11:20	77:10 78:19	required 57:17	48:18 49:8	123:9
12:15 44:3,12	80:9 81:9	reserved 3:11	55:12 61:22	school 13:11,13
117:2	86:16 100:12	reserving 5:7	66:17 72:3	20:7,12,13
reduced 58:12	110:5,9	residence 85:10	73:20 85:1	29:6
Reeves 28:15	relevant 40:2	resources 13:11	93:4,19 94:1	schools 18:10,13
refer 122:9	rely 66:11	respect 60:9	106:22 107:23	20:9
reference 85:18	remain 16:6	99:18 101:1,3	112:17 115:10	scoffing 70:7
112:11 121:20	22:20	106:21 107:3	121:7 123:23	scope 75:4 76:2
referring 11:12	remained 16:1	respond 66:4	128:20	76:15,18 78:22
22:5 38:10	remains 132:2	responded 65:12	rights 58:16,21	screening 23:11
51:18 62:20	remember 7:15	response 9:4	86:14	seasoned 18:8
74:19 85:15	8:16,21 9:1	35:9 40:14	Robert 21:16	21:5,7,8,13
108:15 115:22	12:20 14:17	41:5 61:20	role 53:7,11	22:1
reflect 43:19	16:4 21:1	79:18 82:1	ROSE 1:9	second 8:18,20
50:9 115:3	28:23 29:7,10	89:13 94:22	rule 57:17 58:6	50:17 73:23
refrain 105:9	29:11,12,19	115:7 124:22	107:21 113:5	75:19 82:2
122:12	37:9 38:18	rest 62:9	128:12	87:22
refresh 43:19	39:2 42:1	result 103:6	rules 3:5,14,20	secondhand
regarding 74:20	49:19 60:8	113:18	4:13 99:17	96:15
76:6	65:16 67:23	review 5:15	100:1,19,23	secretaries
regards 57:14	68:13 74:6	28:23 44:3,23	101:2 106:6	12:17
64:11 98:9	94:11	51:8,14 65:3	ruling 3:12	secretary 12:17
107:10	repeat 127:1	81:15,16		security 9:9,13
regulation 23:19	rephrase 121:11	reviewed 44:12	S	10:7,11
regulations	replace 123:11	50:23	sacrificing 58:20	see 6:15 12:21
100:20 101:1,3	reply 65:17	reviewing 45:6	58:21	50:3 53:12,16
relate 26:15	report 64:4,6	50:18 51:12	SAITH 132:6	63:16 82:4
relates 26:9 33:5	73:6,6,7,8,11	115:8	sanction 53:22	92:5 94:10
57:12 59:19	83:20 99:23	rewrite 107:20	70:15	96:6 112:14
74:23 100:20	100:22,23	Rickey 74:7	sat 5:17 6:2 8:18	126:8
120:19,20	101:2 115:18	76:11,13 77:7	9:2	seek 49:23
126:4	118:1,10,15,17	81:10,16,21	satisfied 73:1	Sellers 87:3,12
relationship	119:1,5,6,11	82:20 90:9,12	saw 62:21	88:3,5
123:21	120:16 130:23	96:13,16 97:7	saying 7:9 18:19	Selma 14:15,18
release 75:1,13	reporter 1:17	98:2,4 101:18	22:8,17 29:14	send 18:10
76:1,5 77:4	3:7 4:22 5:3,11	101:23 102:12	34:13 47:22	sends 48:1

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 146

sent 73:9	24:21 33:17	sooner 32:20	129:1	statute 23:18,21
separate 10:19	34:8 36:20,22	Sorrells 21:16	spoken 99:8	statutes 79:4
11:7 33:12	37:8 38:13	sorry 5:22 27:19	100:8,14	stay 32:9 115:12
83:6 93:21	41:10 47:6	36:21,23 48:13	spouses 100:6	stayed 16:15
separates	53:14 54:1	50:5 63:22	100:15	stipulated 3:2
125:18	59:8 60:2,4,20	77:1 84:13	staff 88:14 89:2	3:16
sergeant 16:10	61:17 70:3	95:2,2 122:23	89:5,12,19	stipulation 1:16
16:15,21 17:1	74:5 78:21	sort 59:6 79:11	90:14 92:10	124:4
17:10,17 19:17	79:1,3 80:3,6,8	105:18 106:20	93:18 96:2	STIPULATI...
19:20	85:11 87:18	sounds 29:14	99:5	3:1
serve 10:10	94:9,14,19	SOUTHERN	stamp 41:1,2	Stokes 74:7
service 25:15	95:2,7	1:3	stand 79:15	76:11,13 77:7
services 24:13	sit 51:13 70:21	speak 4:6 7:8	standard 29:3	81:10,16,21
24:15	117:8	29:18 42:7	43:14	82:20 90:9,12
sessions 8:10	site 74:8 77:8	64:5 73:4,6	start 15:7	96:13,16 97:7
set 23:19	81:17,18,20,21	98:21 101:9	started 15:19	98:2,4 101:18
setting 20:14	82:8 85:18,21	111:16	19:14 21:9,18	101:23 102:12
settle 38:12	86:1 94:3,7,8	speaking 109:22	22:1 23:2	102:15 103:9
setup 121:19	94:10,13 95:3	129:3	109:8	stop 92:5
Shaun 51:18,19	98:11,14	special 18:4	starting 15:17	story 16:22
51:20,22 52:3	102:20	specialized	state 1:18 3:8	Stovall 6:8,14
61:9,19	sitting 7:13	18:11	4:10 35:5	straight 103:13
shelter 13:6,6	39:20	specific 22:6	38:16 58:10	strategy 8:9
Sherry 1:16 3:6	situation 127:12	63:4 72:5 90:4	stated 54:7 59:8	Street 1:19 2:4
she'd 107:21	six 10:12 14:7	131:10	83:9 106:5	strictly 122:12
shield 59:1	50:20	specifically 9:2	108:8 109:7	strong 70:1
shifts 17:16	Sixth 2:9	24:5,10 51:15	121:17	stronger 70:15
shop 13:9	slick 55:21	58:10 68:14	statement 36:6	structure 11:10
show 39:11,13	slightly 34:17	78:9 100:10	39:23 40:2	11:15 12:3
40:17,22 68:14	social 123:21	speculate 86:20	42:19 47:19,20	structured
85:4	socialized	speculating	53:3 55:3 56:3	20:14
show-cause	123:16	82:11 86:19,22	59:5 61:5	stuck 37:2
121:18,20	solicit 53:16	speculation	62:10 64:19	subject 101:12
sic 14:22 48:19	soliciting 53:11	81:13	65:3,10,13	101:15,17,22
side 32:5	somebody 7:13	speculations	66:9 74:7 89:1	102:10
sign 4:3,14 5:2	30:6 42:20	56:4	92:10 121:21	subjects 30:18
simply 55:14	58:19 95:4,4	speculatory	131:7,8	113:6
single 8:15	95:10,10,15	82:13	statements	submit 5:8
sir 4:16 5:18	97:9 98:3	speed 16:14 46:9	20:11 49:12	118:17
9:12,21 10:1	102:13 103:21	63:16 75:23	52:8 73:12,14	submitted 73:8
10:18 11:14	112:4 125:7	spending 67:6	73:15 125:15	118:1,15
14:10,12,15,20	somebody's	spoke 24:5	STATES 1:1	subsequent
15:14,17,21,23	58:15	96:23 99:1	status 25:10	57:16 58:23
16:15 24:7,10	soon 4:23	100:5 101:6	129:19,23	59:2

367 VALLEY AVENUE

(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 147

subsequently 5:9 94:12 118:2 Suddenly 92:14 SUE 2:7 suggest 72:20 114:13 suggested 45:16 45:19 128:7 suggesting 85:7 suggestion 47:1 70:7 122:21 suing 6:6 Suite 2:4 summarization 64:18 summary 5:5 73:16 supervises 69:4 supervisor 17:14,16 68:23 supervisors 42:12 support 5:5 supposed 76:2 76:15 78:22 122:4 supposedly 75:4 sure 7:5,22 8:3 8:11 9:3 16:5 20:6 21:4,15 29:5 32:19 34:12 40:23 46:21 50:19 71:2 73:20 105:20 119:23 surrounding 8:17 suspect 102:9 suspended 92:9 116:13 suspension 92:7 suspicion 125:8 sworn 4:5 10:4	T table 82:7 117:12,14 take 7:10 9:20 18:4 20:11 46:8 64:8 68:17 70:8 91:18 taken 1:15 3:4,6 29:22 talk 48:23 49:2 77:4 78:13 79:23 80:4 87:13,14 91:22 92:13 94:4 95:13,16,19 96:17 98:18 101:11 103:17 109:3 119:9,14 119:17 130:14 talked 8:9 53:6 95:12,15 96:3 96:6,7,18 98:16 101:14 102:13 112:9 127:17 129:5,6 talking 10:17 18:17 19:13,23 20:1 22:15 26:20 31:9,12 38:3 44:8 55:2 64:17,17 67:7 67:17 75:3,7,9 75:12 78:9 79:21 80:4 83:15 86:3 88:18 89:6,8 89:21 93:9,12 94:5 96:1 99:5 107:22 108:22 110:6 113:7,16 115:23 116:6 118:6 120:1 127:4 130:20	target 33:2 taught 20:17 technically 8:2 8:11 tell 16:22 70:18 87:22 90:21 93:1 100:7,8 100:13 110:16 110:20,23 111:19 112:4 112:19 114:7 114:12 118:12 129:10 telling 52:14 tells 20:2 temporarily 92:12 ten 12:10 22:22 71:13 tentative 5:14 tenure 20:10 term 17:6 34:5 59:22 63:13 88:21 termed 107:14 terribly 102:2 testified 4:7 27:11 46:21 56:11 80:12 108:3 126:4 testify 36:11 91:9 testifying 65:6 66:19 108:6 testimony 41:4 42:7,9 45:1 58:22 66:15 69:12,13,13,14 70:20 72:12 79:15 101:20 102:9 109:17 tests 14:9 Thank 12:2 15:23 79:22	thanks 34:18 theft 27:15 28:3 theories 68:9 thereabouts 14:7 thing 15:12 19:13 44:19 51:19,21 59:9 67:5 75:3,3 103:15 131:6 things 20:21 43:19 46:10 71:19,19 75:23 90:5 93:3,20 100:6,15 102:16 106:21 119:13 120:7 125:18 131:9 think 9:13,15 17:4 21:5,11 23:2 28:2,7 29:2,17 31:18 31:22 34:9,13 34:14 38:6 39:7,16 40:14 52:19 53:15 54:2 57:7,8 58:12 59:6 61:20 67:19 68:22 71:17 76:12,13 83:1 85:12 86:11 87:4,8 91:1,11 91:13,16 93:6 93:16,23 104:11,13 119:2 120:2 122:20 123:1 125:10 126:9 126:20 127:8 129:15,17 thinking 13:16 14:16 16:2 114:22	thinks 31:15,23 third 39:10 40:9 100:2 thirdhand 96:15 thought 50:2 51:8 60:20 77:9 101:16 thoughtful 115:4 three 40:3 ticket 85:9 90:6 90:13 91:19 92:2 116:1,6 116:15,18 117:20,22 118:4,8 119:15 119:19,21,22 119:23 121:9 ticket-fixing 116:9 time 3:11,12 5:2 5:12 9:21 10:3 14:23 16:16 29:16 34:15 41:17,19 42:17 43:5,18,20 47:21 52:20 56:19 61:1 62:1,21 63:7 63:11 64:8,13 65:21 66:10 67:6,7 68:17 69:1,9 73:23 81:6 88:7,12 88:17,19 90:17 92:8 99:4,10 105:19 112:1 115:6 119:11 122:6 123:18 times 5:21,23 6:2 32:11,22 77:17 104:19 104:22 today 37:12
--	--	--	---	--

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 148

40:21	trap 55:5,13,19	110:21 112:10	4:17 11:1 19:3	violation 95:17
told 21:17 43:1	55:23	112:21 114:15	19:5,22 20:7	98:18 99:2
48:10,14 50:13	trial 3:19	116:9,12	31:5 34:12	100:3 101:3
51:16 52:4	tries 112:16	117:20,21	58:14 59:5	106:4,9,11,14
54:6 62:16	triggered 86:2	118:8,20 119:8	60:5 62:20	106:16 107:21
64:11,20,23	trouble 41:18	119:9,17	78:7 88:22,23	108:1
65:19 66:8	true 53:13,17	120:18,23	93:4 111:21	violations 101:1
81:1 82:20	59:11 66:8	121:9,16,22	113:22 123:8	vocabulary
89:3 93:7,17	121:21	122:13 123:14	123:12	34:10
93:17 94:20	truth 4:6,6,7	123:20 124:1	understanding	vs 1:8
95:4,10,13,16	104:8	126:13,14,16	119:7	
96:23 97:5	truthfully 57:11	126:18,19	underway	W
100:5,12	try 4:22,23	129:5 130:17	105:11 122:14	wait 123:5
107:11,18	19:11 55:13	130:20 131:1,2	unfair 40:13	want 4:12 20:6
112:7,8 116:2	trying 22:10	131:5,8,10	unit 10:20 22:21	28:7 36:8
118:14 123:23	34:11 46:8,9	Turner's 92:11	23:1 25:2	39:12 41:13
126:19 130:21	55:5,14,19,20	126:13 131:8	UNITED 1:1	44:18 46:11,15
131:2	55:20,21 75:22	twice 6:1 77:19	unlawful 75:1	49:23 55:17
tomorrow 40:21	76:21 93:1	twist 62:23	unquote 60:21	62:6,7 65:14
tooth 44:14,15	96:12 108:4	two 8:10 13:1,22	61:1 121:18	69:22 70:11,21
top 13:15	109:15 111:6	33:4,8,13,13	unrecorded	71:2,9,11,12
total 16:22	111:18 113:8	39:5,7 46:4	56:16	71:20 72:9,15
totality 20:20	113:13,20	72:1 93:3,21	unsworn 10:8	83:21 92:19
totally 93:8	114:1 120:7	102:16 104:18	unverified 5:8	104:6,7,8,9
125:14	129:7 130:16	104:21 110:17	5:11	109:11 113:6
track 16:13,20	turn 96:7	120:18 125:17	upkeep 9:19	119:22
92:5 94:1	turned 116:14	128:14	use 4:19 5:3	wants 72:22
96:12	118:23 119:5,5	type 28:3 74:9	24:17 78:4	131:17
trained 19:9,15	Turner 53:1,5	93:5 99:16	88:21	warned 80:2
19:18,21 20:1	74:10 75:2,11	125:2 127:23	useful 58:17	warning 56:8
21:1,2	75:14 76:2,6	131:3	usually 15:17	57:5
training 9:20	76:18 77:5	types 68:9	utilities 27:14,21	wasn't 7:6 10:4
13:10 14:11,18	81:5,9,19,22		27:22	19:23 25:23
18:4,8,12 20:4	82:9,18 85:7	U		26:6,6,9 36:2
21:12,12	85:12 87:14	Uh-huh 41:5	V	48:9 50:2
trainings 19:15	89:22 90:2	89:13 94:22	vague 24:6	54:12,13 69:2
transcript 2:14	91:23 92:3,8,9	124:22	verb 46:7	69:2 70:13
39:23 45:4,7	93:4 101:9,12	ultimately 53:15	verbal 103:5	79:8 81:1,6
49:4 51:4	101:14 102:14	umbrella 13:7,9	verbally 89:3	83:8,9 88:7,11
72:12,17,23	102:18 103:3,4	30:8,14 111:15	view 22:3 53:7	93:13,14 94:2
transcripts	103:17,19	unauthorized	53:11	106:5 122:3
44:23 73:18,19	104:1,20 105:6	75:1	violated 99:8,12	way 19:12 22:7
transferred	105:10 108:22	uncertain 115:7	99:17 100:1	22:19 24:6
17:19	109:22 110:6	understand 4:12	102:19 113:19	40:15 41:14

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 149

53:18 68:3	120:4,6	82:12 86:10	1999 23:3
90:23 91:18	witnesses 30:18	96:10 116:11	
103:22 121:13	59:19,23 60:6	120:4 123:1	<u>2</u>
web 74:7 77:7	113:7	132:3	2nd 118:18,21
81:17,18,20,21	word 45:15,19	year 14:1 16:17	2001 23:1 37:4,4
82:8 85:18,21	77:15 78:5,8	16:18,19 17:17	37:18,22 38:6
86:1 94:3,7,8	111:21 120:10	17:21,21 18:2	38:8 40:1
94:10,13 95:3	words 24:18	21:18 36:21	107:4,9,23
98:11,14	37:3 38:23	38:1	2005 74:4 105:4
102:19	49:15,17,19	years 9:1 16:9	118:18 120:5
Wednesday 1:20	52:11 65:15	22:22 44:16	120:12,15
week 65:22	78:14 121:19	50:21	2007 1:20
went 14:13	work 23:10	yesterday 77:17	23 9:1
17:14 18:1,2,5	31:16 47:23	y'all 26:18,19,20	2400 2:8
19:15 20:11,12	85:10	29:8,15 30:22	
23:3 29:6	worked 17:20	81:3	<u>3</u>
34:14,16 103:8	60:23 62:1		3:30 71:23
weren't 10:2	126:15 127:5	<u>1</u>	31 1:20
22:23	128:18	1D 15:4	35203 2:9
we'll 54:4	working 21:19	1F 15:5	36604 2:5
we're 10:16	22:1 111:23	1:05-CV-1172...	<u>4</u>
67:17 72:21	worry 110:10	1:8	4:40 132:4
85:23 91:21	wouldn't 54:18	1:55 1:21	40,41,35 2:14
93:9 94:5	54:19 56:22	10th 105:4,14	415 2:4
107:22 115:23	60:3 79:20	118:20 120:3	
116:6 119:13	82:23 83:6	100 7:5 9:3 16:5	<u>6</u>
120:1 127:4	127:22	16:11 21:15	6 61:3,4
we've 13:12	would've 57:2	27:12 47:18	<u>8</u>
71:23 120:2	write 21:18	124:4	80s 16:5
whatsoever	106:15	126 1:19	84,93,102 2:15
124:5	writing 88:15	1278 41:2	
White 39:8,15	wrong 33:20	1281 61:3	<u>9</u>
39:17,21 40:10	37:2 70:18	14 2:14 41:6,9	951 2:4
40:11 48:17,19	77:21	41:20 45:8	
wife 128:5	www.rickeyst...	15 2:15 85:4,5	
129:10 130:5	2:15	94:7 102:20	
witness 4:2,5	<u>Y</u>	15th 105:3	
6:20 7:1,11	yeah 20:23 26:5	16th 4:20	
18:18,22 26:5	30:12 38:12	1901 2:9	
39:19 59:16	45:9,11 53:2	1985 9:7	
64:9 70:5 78:3	55:1,3,10	1990 16:2,10	
78:6 84:23	57:21 65:5	1991 36:17,23	
91:16 114:18	67:20 71:10,14	1993 21:21	
114:22 115:4		1994 21:21	

367 VALLEY AVENUE

(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660